

1 **UNITED STATES DISTRICT COURT**

2 **DISTRICT OF NEVADA**

3 DANIEL SMALL, et al.,,

4 *Plaintiff,*

5 v.

6 UNIVERSITY MEDICAL CENTER OF  
SOUTHERN NEVADA

7 ,

*Defendants.*

NO. 2:13-cv-00298-APG-PAL

**SPECIAL MASTER DANIEL B.  
GARRIE E-DISCOVERY SUMMARY  
AND ORDER**

8 **BACKGROUND AND PRIOR PROCEEDINGS**

9  
10 Special Master Garrie was appointed on March 3, 2014. (Dkt. No. 149.) On March 10,  
11 2014, the parties, counsel for all parties, and ESI consultants for all parties, met with Special  
12 Master Daniel Garrie and United States Magistrate Judge Peggy Leen in chambers. (Dkt. No.  
13 151.) On March 18, 2014, Special Master Garrie memorialized his directives to the parties in a  
14 written order. (Dkt. No. 154.)

15 Special Master Garrie conducted multiple hearings on the following dates: April 4, 2014;  
16 April 7, 2014; April 10, 2014; April 15, 2014; April 27, 2014; May 1, 2014; May 6, 2014; May  
17 20, 2014; June 3, 2014; June 16, 2014; June 26, 2014; July 3, 2014; July 19, 2014; July 25, 2014;  
18 July 28, 2014; August 4, 2014; and August 8, 2014, with counsel, the parties' representatives,  
19 and consultants regarding UMC's ESI collection and production issues, as well as UMC's efforts  
20 to comply with the ESI Protocol with respect to collecting, searching, and producing ESI from  
21 databases. UMC's paper production of responsive documents, and outstanding issues  
22 surrounding UMC preservation, collection, and production of ESI from the newly discovered  
23 timekeeping systems.

24  
25 **A. UMC Failed To Comply With The ESI Protocol As To The Production Of  
26 Responsive ESI Contained In Databases.**

27 At the hearing on August 8, 2014, Counsel for UMC informed Special Master Garrie that  
28 Mr. Edmondson, UMC's existing ESI Vendor, failed to comply with the handling of databases as

1 set-forth in the Amended ESI Protocol (Dkt. 165) stipulated to by the Parties. *See* (8/08/14  
2 transcript), at 66-71 (discussing UMC's failure to identify databases as required under the ESI  
3 Protocol). At this hearing, it was established that Mr. Edmondson had not processed, searched,  
4 and produced the database ESI. *See* (8/8/14 transcript), at 67.

#### 5 **B. Hard Copy Document Production**

6  
7 At the April 22, 2014 hearing, Special Master Garrie ordered UMC to construct a  
8 document index for the hard copy document review hearing. *See* (4/22/14 transcript), at 227.  
9 During the June 16, 2014 hearing, the Special Master Garrie heard positions of both parties on  
10 hard copy review and substantial conferring by the parties off the record transpired. As a result  
11 of this dialogue, the parties reached an agreement regarding in-person review of hard copy  
12 documents at UMC, document indices, and custodian declarations. *See* (6/16/14 transcript), at  
13 110:15-112:24; *see id.* at 106:23-107:5.

14 Between April and July of 2014, UMC worked to comply with these orders. However, in  
15 late July of 2014, UMC counsel's asserted that Plaintiffs' counsel's use of the word "production"  
16 instead of "inspection" changed the protocol such that UMC was no longer required to comply  
17 with the prior orders and agreement it had reached around the production of paper documents.  
18 Instead UMC sought to produce departmental documents scanned on CDs, without indices, and  
19 submit custodian declarations at later dates. *See* Exs. A, B (Plaintiffs' and UMC's Letter Briefs).  
20

#### 21 **C. Preservation, Collection, and Production of Responsive ESI from UMC** 22 **Timekeeping Systems<sup>1</sup>**

23  
24  
25  
26  
27 <sup>1</sup> The TeleTracker system includes meal period data for Environmental Services and Transport  
28 department employees and the CrimeStar system includes such data for public safety employees.  
This data is "not captured in Kronos." *See* Ex. C June 25, 2014 Counsel Witty Letter.

1 At the July 28, 2014, August 4, 2014, and August 8, 2014 hearing, Special Master Garrie  
 2 ordered UMC to provide declarations from individuals including: David Williams a System  
 3 Administrator in UMC's information technology ("IT") department;<sup>2</sup> Carmelito Mendoza, a  
 4 Database Analyst in UMC's IT department;<sup>3</sup> John Rendall, Director of Environmental Services  
 5 & Patient Transport; Jessica Monje, Manager, Service Response Center; Bill Pellegrino,  
 6 Director, Patient Placement, Tana Wisniewski, IT Support for GRASP, and Linda Williams,  
 7 Nursing Supervisor.<sup>4</sup>

8 Special Master Garrie determined that UMC's IT department supports these timekeeping  
 9 systems by bifurcating support into application and database support. *See* (8/8/2014 transcript) at  
 10 14:8-21 (Mr. Mendoza testifying that he is the database owner but not the application owner for  
 11 the timekeeping systems within the IT department). It was also established that these additional  
 12 timekeeping systems were used by members of the opt-in Plaintiffs class, and that each of these  
 13 systems can be used to track scheduled meal breaks, with the possible exception of GRASP). *See*  
 14 Ex. C (June 25, 2014 Witty Letter).<sup>5</sup> It was also determined that all the timekeeping systems,  
 15 except TeleTracking and possibly Clarity depending on how user time entries were captured,  
 16 permitted users (including opt-in Plaintiffs) to overwrite the data entered. This made it necessary  
 17 for UMC to have preserved a copy of the data in the timekeeping system to prevent possible loss  
 18

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19  
 20 <sup>2</sup> Mr. Williams was identified as an individual knowledgeable about TeleTracking, Crimestar,  
 21 GRASP, and Clarity applications at UMC.

22 <sup>3</sup> Mr. Mendoza was identified by Counsel for UMC as the only individual with the most  
 23 knowledge concerning these systems from the database perspective.

24 <sup>4</sup> Mr. Williams identified John Rendall, Jessica Monje, and Bill Pellegrino as individuals at  
 25 UMC knowledgeable about the TeleTracker timekeeping system. *See* Ex. D August 7, 2014  
 26 declaration of David Williams at ¶4. Mr. Williams also identified Lorraine Noonan, Linda  
 27 Williams, and Tana Wisniewski as individuals knowledgeable about GRASP. *Id.* at ¶6.

28 <sup>5</sup> Testimony on this point was often inconsistent or contradictory. *See e.g.* Ex. E July 8, 2014  
 Williams Declaration at ¶ 4 (stating data was preserved); Ex. F August 7, 2014 Gurrola  
 Declaration at p.3 (stating there is no data retention policy for CrimeStar). At this stage, UMC's  
 only option to demonstrate that responsive ESI was not destroyed from these three timekeeping  
 systems is to allow Special Master Garrie to conduct an on-site forensic analysis of each of the  
 systems and determine that responsive ESI was neither lost nor deleted.

1 of ESI.<sup>6</sup> *See* (8/4/14 transcript), at 125-127; Ex. G (8/7/2014 Linda Williams declaration), at ¶2  
2 (stating users could alter data in GRASP during a 24 hour period and that GRASP has a 6 month  
3 retention period); Ex. F (8/7/14 Gurrola declaration), at ¶¶ 4-5 (stating that managers and  
4 supervisors can make changes to Crimestar reports).<sup>7</sup>

5 At the August 8, 2014 hearing, it was established by UMC's counsel that there is no  
6 individual at UMC with sufficient skill, knowledge, or expertise with any of the four time-  
7 keeping systems to ensure collection, search, and production of responsive ESI from these  
8 systems. *See* (8/8/2014 transcript) at 44:1-4, 44:18-25, 45:1-2, 48:13-17 (UMC agrees to  
9 identify individuals who can address issues with proprietary database systems).

10  
11  
12  
13 **IT IS HEREBY ORDERED THAT** UMC is to collect, search, and produce all  
14 responsive ESI contained in all databases identified by Plaintiffs and UMC on or before August  
15 11, 2014 pursuant to the ESI Protocol no later than August 29, 2014, and UMC is to retain a  
16 vendor with appropriate skills and expertise to facilitate a timely and orderly production of this  
17 ESI;

18 **IT IS HEREBY FURTHER ORDERED THAT** UMC is to provide scanned copies of  
19 departmental documents, along with accompanying indexes and custodian of records  
20

21  
22 <sup>6</sup> While Mendoza states that only he had the ability to delete data from timekeeping systems (and  
23 that he did not delete data), he also states that it may be possible for users of TeleTracker,  
24 Crimestar, and GRASP to remove data from these systems. *See* Ex. H August 1, 2014  
25 declaration of Carmelito Mendoza at ¶4. He also states he does not know of any specific data  
26 retention policies for the timekeeping databases Clarity, TeleTracker, Crimestar, and Grasp. *Id.*  
27 at ¶5. It therefore at best unclear whether users could altered or removed timekeeping data.

28 <sup>7</sup> UMC witnesses have stated that the GRASP system does not contain responsive data, but were  
unable to provide information from any witness with an IT function on this issue. *See* Ex. I  
August 7, 2014 Declaration of Tana Wisniewski, IT Supervisor of Clinical Analysts, at ¶5  
(stating that Linda Williams, a registered nurse, is the person with knowledge of data on the  
GRASP system).

1 declarations,<sup>8</sup> prepare a document index for these documents as previously agreed and ordered  
 2 by the Special Master (4/22/2014 transcript at 227; 6/16/14 transcript, at 110:15-112:24; *see id.*  
 3 at 106:23-107:5), and UMC is to produce at least seven (7) departments per week starting the  
 4 week of August 18, 2014 with the document index and the appropriate custodian declarations  
 5 relating to the hard-copy documents; and  
 6

7 **IT IS HEREBY FURTHER ORDERED THAT** UMC is to produce all responsive ESI  
 8 contained in the Clarity, GRASP, TeleTracker, and CrimeStar timekeeping systems no later than  
 9 September 3, 2014 in the following manner:  
 10

- 11 • On or before August 11, 2014 Plaintiffs shall review and identify additional database  
 12 files for processing.<sup>9</sup>
- 13 • On or before August 11, 2014, UMC shall confirm that its new ESI vendor has seen  
 14 and understood the Amended ESI Protocol [Dkt. 165] in this matter.<sup>10</sup>
- 15 • The parties shall coordinate a call on UMC proprietary database ESI for August 13,  
 16 2014 with all ESI vendors and the Special Master.<sup>11</sup>
- 17 • On or before August 14, UMC is to identify individual(s) with sufficient skill and  
 18 expertise with each of the timekeeping systems at issue. After identifying the  
 19 individual(s), UMC is to provide the credentials to Plaintiffs.
- 20 • On or before August 22, 2014, the individual(s) identified by UMC as an expert in the  
 21 respective timekeeping system, is to go onsite to UMC and ascertain the following for  
 22 the respective timekeeping system: How UMC uses the particular timekeeping  
 23 system; What data was captured in the timekeeping system (e.g., lunch breaks or start  
 24 time); How the database and application pieces for each of the timekeeping system  
 25 has been implemented at UMC; What reports and other output the particular  
 26 timekeeping system can provide; How each of these timekeeping systems are set-up  
 27 at UMC.
- 28 • On or before August 29, 2014, UMC is to provide the Plaintiffs with a status update  
 regarding its production of timekeeping system ESI.

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24 <sup>8</sup> All productions will be in compliance with the ESI Protocol.

25 <sup>9</sup> The Parties discussed this deadline at the August 8, 2014 hearing. See (8/8/2014 transcript)  
 26 68:2-9.

27 <sup>10</sup> The Parties agreed to this deadline at the August 8, 2014 hearing. See (8/8/2014 transcript) at  
 28 35:16-25, 36:1-5, 66:21-23, 67:3-4.

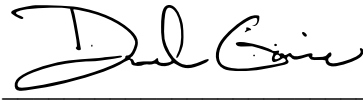
<sup>11</sup> The Parties discussed and agreed to this deadline at the August 8, 2014 hearing. See (8/8/2014  
 transcript) at 58:2-14.

- On or before September 3, 2014, UMC is to produce all responsive ESI for each of these time keeping systems to Plaintiffs in accordance with the ESI Protocol.

### **ADDITIONAL HEARINGS**

A one-hour hearing is tentatively scheduled for August 15, 2014 at 14:00 PST to discuss any technical issues that may arise or require further clarification from the supplemental declarations of Mr. Mendoza, Mr. Schaibley, and Mr. Edmondson.

**SO ORDERED:**

A handwritten signature in black ink, appearing to read "Daniel Garrie", is written over a horizontal line.

Daniel Garrie, Esq.

Electronic Discovery Special Master

DATED this 11th day of August, 2014.

## Exhibit A



August 4, 2014

VIA ELECTRONIC TRANSMISSION

Special Master Daniel Garrie  
Law & Forensics  
16192 Coastal Highway  
Lewes, DE 19958  
Email: Daniel@lawandforensics.com

Re: *Small, et al. v. University Medical Center of Southern Nevada*,  
Case No: 2:13-cv-00298-APG-PAL; Plaintiffs' Response re Hard Copy Index

Special Master Garrie:

Plaintiffs submit this response to UMC's letter of July 31, 2014. This letter sets forth Plaintiffs' position concerning: (i) the review of hard copy documents in this matter, including documents maintained at the departmental level (*e.g.*, schedules, assignment sheets, attestation forms); (ii) UMC's related agreement, and the corresponding orders, to provide an index and contemporaneous custodian declarations, both of agreed-upon form and content, relating to the hard copy document productions; and (iii) and UMC's unilateral change of course as related to the foregoing, in violation of your prior orders.

During the June 16, 2014 hearing, after hearing the positions of both parties on hard copy review and substantial conferring by the parties off the record which resulted in the agreement regarding in-person review of hard copy documents at UMC, document indices, and custodian declarations, the Special Master issued an unambiguous order relating to the production the hard copy documents reflecting the parties' agreement. *See* Ex. A, 6/16/14 transcript, at 110:15-112:24; *see id.* at 106:23-107:5 (UMC confirmed its understanding of the prior order to provide an index, Counsel Witty stated: "We have agreed to a form for the index with plaintiffs' counsel."). UMC was first ordered to construct a document index for the hard copy document review during the April 22, 2014 hearing. *See*, Ex. B, 4/22/14 transcript, at 227. UMC also was ordered to clear approximately 15 departments per week. Ex. A, 6/16/14 transcript at 111:6-25.

In scheduling the first document review, Jon Tostrud wrote to Ms. Witty on July 8, 2014, to check on the status of departmental documents and informed Ms. Witty of Plaintiffs' counsel's intention "to move quickly through the hard copy documents." Ex. C (7/8/14 Jon Tostrud email). With no response from UMC, on July 10, 2014, Mr. Tostrud emailed the Special Master and Counsel Witty, reminding Counsel Witty of the Special Master's June 16, 2014 order regarding production of departmental documents (and other items). Ex. D (7/10/14 Jon Tostrud email). On July 10, 2014, Ms. Witty



responded, in pertinent part: “When Plaintiffs’ counsel has completed inspection of the pay period documents, UMC will be able to produce documents from departments on schedule. **As UMC does not believe the pay period document inspection will be completed next week, those [departmental] documents are not being moved to the viewing space.**” Ex. E (7/10/14 Cayla Witty email) (emphasis added).

In response to Plaintiffs’ counsel’s objection to UMC’s stated refusal to provide departmental documents, on July 10, 2014, the Special Master stated: **“I am Ordering UMC to comply immediately with my prior Orders or appeal to Judge Leen.”** Ex. F (7/10/14 Special Master email) (emphasis added). UMC did not immediately comply with the order to provide departmental documents for review, nor did it seek relief from Judge Leen. Rather, Counsel Foley responded on July 11, 2014, that **“UMC will produce the additional records from the departments but will need a bit of time.”** Ex. G (7/11/14 Margaret Foley email) (emphasis added). Plaintiffs’ counsel conducted their review of the initial production of Ms. Panzeri’s payroll files on July 16 and July 17. UMC provided no departmental documents for Plaintiffs’ review.

On July 18, 2014, Mr. Tostrud again emailed UMC to follow up on the ordered production of departmental documents. *See* Ex. H (7/18/14 email chain). The Special Master again acknowledged UMC’s violation of his prior orders, and requested that Plaintiffs propose sanctions for UMC’s breach. *Id.* Plaintiffs’ counsel responded and proposed appropriate sanctions for UMC’s violations. *Id.* The Special Master stated that he would defer ruling on Plaintiffs’ request for sanctions until July 25, 2014. *Id.*

On July 25, 2014, UMC proclaimed its new intention – contrary to the parties’ prior agreements and the Special Masters orders – to produce departmental documents scanned on CDs, without indices, and to have custodian declarations follow at later dates. The Special Master did not order any of the requested changes at that time. On Tuesday, July 29, 2014, per the parties’ previous communications, Plaintiffs arrived at UMC for scheduled document review. Again, no departmental documents were provided. Thus, Plaintiffs requested a conference with the Special Master. UMC’s counsel’s latest explanation for UMC’s violations of the Special Master’s orders -- a semantic argument claiming that Plaintiffs’ counsel’s use of the word “production” instead of “inspection” changed the protocol here<sup>1</sup> -- is belied by the significant record on this topic, including the 4/22 and 6/16 hearings. The Special Master thus reiterated his prior orders in a July 29, 2014 telephonic hearing, ordering UMC to provide departmental documents for Plaintiffs’ continued inspection, as agreed, that week. Accordingly, Plaintiffs resumed their review on Wednesday, July 30 (which was to continue through August 1). The next day, on July 31, UMC informed Plaintiffs that UMC would provide no additional documents on Thursday or Friday. Ex. J (7/31/14 Kara Wolke email).<sup>2</sup>

While UMC repeatedly asserts confusion and misunderstandings as the reason for its unfounded changes of course in the hard copy review/production, the record on this

<sup>1</sup> *See* Ex. I (7/29/14 Margaret Foley email).

<sup>2</sup> Significantly, this occurred about 7 weeks after UMC was first ordered to clear 15 departments per week, and over a year after Magistrate Leen ordered these very documents to be produced.

matter is clear. Moreover, even if there were confusion or uncertainty over the index or other hard copy production issues, UMC took no action to even attempt to clarify such confusion for a period of more than 5 weeks. Indeed, the Special Master appears to have understood the prior agreement and order perfectly, stating: **“I assumed that the inspection was to occur on-site, and that there was an index to be provided.** And that after certain documents were identified, they were to be produced.” See Ex. K (7/25/14 transcript, at 119:3 – 119:6) (emphasis added).

Pursuant to the clear record and the Special Master’s orders, the issue of the document index should have been put to rest by this time. At no time in the previous five weeks, however, did UMC seek relief from the Special Master’s order regarding the hard copy production and index. Moreover, rather than face the serious consequence of a contempt ruling for its repeated failures to comply with the Special Master Order, UMC chose to groundlessly assert confusion and “mutual mistake” in defense of its failures.<sup>3</sup> For this behavior, UMC should be sanctioned and a formal discovery referee be appointed at UMC’s expense for the duration of this lawsuit.<sup>4</sup>

UMC’s misconduct in delaying, violating orders, and unilaterally changing agreed-upon conduct has been pervasive and unprecedented in this case. Plaintiffs respectfully submit that UMC should not only be held to account for its misconduct, but also held to adhere to the Special Master’s prior clear orders and its own agreements. Accordingly, Plaintiffs respectfully request that UMC be ordered to produce the agreed-upon index and custodian declarations relating to the hard-copy documents.<sup>5</sup> In the spirit of compromise and accommodation, however, in lieu of on-site inspection, Plaintiffs are willing to accept UMC’s recent proposal to provide scanned copies of departmental documents, along with accompanying indexes and custodian of records declarations. Further, Plaintiffs request that any such scanned/electronic productions be made in strict compliance with the ESI Protocol, and that UMC be placed on a strict schedule for this production that tolerates no further delay and prejudice to these proceedings by UMC.

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<sup>3</sup> Ms. Foley states in her July 31, 2014 letter: “the doctrine of ‘mutual mistake,’ studied by first-year law students across the country, seemed to have come startlingly alive.” The facts at bar, however, do not come close to constituting any “mutual” mistake as defined by that doctrine. In fact, any alleged mistake, as dubious as that claim may be, is strictly unilateral in nature, and 100% on UMC’s side. Moreover, this is not a subject of “informal special master proceedings” as UMC contends. The hearings at issue were memorialized by a certified Court reporter to avoid any confusion or misunderstanding that UMC now claims occurred.

<sup>4</sup> UMC’s excessive use of the excuse of confusion, and misunderstanding as a justification to not follow through on its discovery obligations – as well as its outright unabashed failures/refusals to follow orders – necessitates the continued oversight of a discovery master. Indeed, even after the July 25 hearing where the Special Master unambiguously ordered UMC to follow through with its production obligations, on Thursday, July 31, UMC still failed to produce departmental documents as ordered.

<sup>5</sup> In light of UMC’s acknowledgement and admission of its fault relating to this issue (see UMC’s letter at p. 2, fn. 3), Plaintiffs refer to the Special Masters prior orders and ask that those orders be memorialized and renewed in a formal, filed Order with the Court.

Sincerely,

/s/ Jon A. Tostrud

Jon A. Tostrud

cc: Michael Mann  
Sid Rao  
Cayla Witty, Esq.  
Margaret G. Foley, Esq.  
Robert W. Freeman, Esq.  
Marc L. Godino, Esq.  
Kara Wolke, Esq.  
David O'Mara, Esq.  
Anthony M. Carter, Esq.  
Bruce Pixley  
Doug Forrest  
Joe Edmondson

# **EXHIBIT A**

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1 much.

2 I do want the remaining results provided --

3 THE WITNESS: Yes.

4 SPECIAL MASTER GARRIE: -- as soon as that  
5 is done.

6 And please just show, counsel for UMC, the  
7 additional Kronos applications you mentioned. While  
8 they've been provided in the entire Kronos database,  
9 I just want to make sure that all of the data --

10 THE WITNESS: I can.

11 SPECIAL MASTER GARRIE: Just show it to  
12 them. Just do as I asked. Show them the application  
13 to make sure.

14 THE WITNESS: Okay.

15 SPECIAL MASTER GARRIE: That's it. Thank  
16 you very much.

17 THE WITNESS: Thank you.

18 SPECIAL MASTER GARRIE: Let's go off the  
19 record for a second.

20 (A discussion was held off the record.)

21 SPECIAL MASTER GARRIE: I want to check in  
22 really quickly with the hard copy index.

23 Counsel for UMC, can you please give me an  
24 update?

25 MS. WITTY: We have agreed to a form for

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1 the index with plaintiffs' counsel. We are beginning  
2 to contact the individual custodians for the specific  
3 groups of documents that have been identified as for  
4 the index. This is a list of more than 130  
5 individuals throughout the UMC.

6 SPECIAL MASTER GARRIE: Is it clear why  
7 former counsel hadn't found these paper documents? I  
8 realize you can't testify for former counsel, but I  
9 was reading through all of the e-mail exchanges  
10 around this, and it's a little befuddling to me that  
11 given that Ms. Panzeri testified that they were  
12 literally in her office. It wasn't like --

13 MS. WITTY: A significant amount of the  
14 documentation from Ms. Panzeri's office, as well as  
15 some of the other documents that are referenced in  
16 the hard copy index, will be duplicative of  
17 information that has already been produced, either  
18 through the opt-in packets or electronic versions.

19 However, we do believe that there is  
20 specific information, most notably the attestation  
21 forms, that were not kept prior to October of 2012,  
22 and would not have been an initial document collected  
23 by prior counsel.

24 SPECIAL MASTER GARRIE: Okay. I just  
25 wondered.

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1 readdress with plaintiffs' counsel. The reason being  
2 is that many of these forms are for a specific date,  
3 and they have asked for the date range for the  
4 documents for each opt-in.

5 If an opt-in had a document from October of  
6 2012, and another document from March of 2013, it's a  
7 huge span of time, but we only have two documents  
8 from that. And because we believe that the more  
9 specificity the better, it takes an extreme amount of  
10 time to go through all of those documents to make  
11 sure that the dates are precise.

12 SPECIAL MASTER GARRIE: Let's go off the  
13 record.

14 (A discussion was held off the record.)

15 SPECIAL MASTER GARRIE: I'm going to order  
16 by the end of the week UMC to confer with their  
17 client at lunch and hopefully identify a room to put  
18 in the 48-plus banker boxes related to Ms. Panzeri's  
19 collection, as discussed earlier in these hearings;  
20 for plaintiffs to start reviewing pursuant to the  
21 protocol set forth.

22 I'm also going to order UMC by the end of  
23 next week to have identified all the 87 individuals  
24 to collect the attestation forms from.

25 I'm going to also order UMC to, by the end

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1 of next week, to have started producing the meeting  
2 minutes and other items Counsel Witty will state  
3 right now.

4 MS. WITTY: You're going to allow us time  
5 to look at the list?

6 SPECIAL MASTER GARRIE: Yes. So after  
7 lunch, UMC will present specifically what will be  
8 coming on a roll-in basis.

9 I'm also going to order UMC to do their  
10 best efforts to clear 15 departments a week.  
11 Recognizing from plaintiffs' side that there will be  
12 some weeks when you will get 20 and some weeks you  
13 will get five, because there will be departments of  
14 one and then departments of hundreds.

15 So it will vary, so they have a plus or  
16 minus factor of four. So anywhere between 11 and 19  
17 boxes could come across.

18 If it requires additional time, please let  
19 me know after lunch. But I'm assuming that once you  
20 identify the individuals, it's just a matter of  
21 getting on the phone with them and making them get  
22 you the paperwork and then sending someone over to  
23 collect it.

24 Am I missing something? Counsel for UMC is  
25 that --



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1 MS. WITTY: The only thing that we ask is  
2 that previously it had been discussed that UMC would  
3 provide custodian of record declarations, if there  
4 was any specific information.

5 SPECIAL MASTER GARRIE: Fair enough.  
6 Plaintiffs is to specify exactly what they want in  
7 the custodian of record declarations, what  
8 information they want.

9 MR. TOSTRUD: And these are for the  
10 individual departments, correct?

11 SPECIAL MASTER GARRIE: As to whatever was  
12 agreed upon earlier between you.

13 MR. TOSTRUD: Okay. That's fine.

14 SPECIAL MASTER GARRIE: You have to provide  
15 that to them by Wednesday.

16 MR. TOSTRUD: Okay.

17 SPECIAL MASTER GARRIE: Once you get that,  
18 that's supposed to come with each box, right? I'm  
19 assuming -- is that reasonable?

20 MS. WITTY: Yes.

21 SPECIAL MASTER GARRIE: So as the boxes  
22 come across, the declarations will come as well.

23 MS. WITTY: That is the intention.

24 SPECIAL MASTER GARRIE: Okay. All right.

25 Let's go back off the record.

# **EXHIBIT B**

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1 MS. WOLKE: Okay.

2 THE SPECIAL MASTER: Well, I'm assuming that  
3 you are not going to want everything off the index.  
4 So you are going to sample from the index first.

5 MR. TOSTRUD: I see.

6 MS. WOLKE: Okay.

7 THE SPECIAL MASTER: Incorrect terminology.  
8 I apologize.

9 They are going to send you a very specific  
10 list of documents from the index, in their entirety  
11 are to be put into a separate room, for then Counsel  
12 for Plaintiffs to go in at their leisure, in a room  
13 that is not a sweatshop, that has air conditioning,  
14 that doesn't need windows, is accessible from at least  
15 9:00 to 5:00 and is made -- and if security or  
16 whatever is required, they make it accessible and  
17 available.

18 They will go to the office. They will --  
19 whatever you guys do with your documents, identify,  
20 "This is something we want," this group.

21 You will then -- Counsel for UMC will then  
22 take the entire whatever it exists as, following the  
23 ESI protocol, produce them all.

24 Do you want them in paper form or would you  
25 like them electronically?

# **EXHIBIT C**



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**Re: UMC/Small: document inspection**

1 message

---

Jon Tostrud <jtostrud@tostrudlaw.com>

Tue, Jul 8, 2014 at 9:13 AM

To: "Witty, Cayla" <Cayla.Witty@lewisbrisbois.com>

Cc: "Marc L. Godino, Esq. (mgodino@glancylaw.com)" <mgodino@glancylaw.com>, "Anthony Carter (acarter@tostrudlaw.com)" <acarter@tostrudlaw.com>, "david@omaralaw.net" <david@omaralaw.net>, "Kara Wolke (kwolke@glancylaw.com)" <kwolke@glancylaw.com>, "daniel@lawandforensics.com" <daniel@lawandforensics.com>, "Freeman, Robert" <Robert.Freeman@lewisbrisbois.com>, "Foley, Margaret" <Margaret.Foley@lewisbrisbois.com>, "Ginapp, Kristol" <Kristol.Ginapp@lewisbrisbois.com>, "Adams, Michelle" <Michelle.Adams@lewisbrisbois.com>, "Thayer, Lisa" <Lisa.Thayer@lewisbrisbois.com>, "Freeman, Kristen" <Kristen.Freeman@lewisbrisbois.com>, Jon Tostrud <jtostrud@tostrudlaw.com>

Counsel Witty:

Plaintiffs will provide 72 hour notice. I simply wanted to give you as much advance notice as possible that we intend to move quickly through the hard copy documents. In order to keep costs down and proceed as efficiently as possible, the hard copy review process will require tremendous coordination with UMC.

Special Master Garie laid out a production schedule for hard copy documents, including, but not limited to, schedules and assignment sheets. Would you please advise on the status of that production?

Regards,  
Jon

# **EXHIBIT D**



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**Re: UMC/Small: document inspection**

1 message

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Anthony Carter <acarter@tostrudlaw.com>  
To: Anthony Carter <acarter@tostrudlaw.com>

Mon, Aug 4, 2014 at 10:46 AM

On Thu, Jul 10, 2014 at 1:34 PM, Jon Tostrud <jtostrud@tostrudlaw.com> wrote:

Special Master Garrie:

You ordered during the June 16, 2014 hearing the following:

(1) "I'm also going to order UMC by the end of next week to have identified all the 87 individuals to collect the attestation forms from." Page 110, lines 22-24

Plaintiffs are not aware if the identifications of these individuals has occurred?

(2) "I'm going to also order UMC to, by the end of next week, to have started producing the meeting minutes and other items..." Page 110, line 25-111, line2

Plaintiffs would like to know if these meeting minutes have been produced?

(3) "I'm also going to order UMC to do their best efforts to clear 15 departments a week. Recognizing from plaintiffs' side that there will be some weeks when you will get 20 and some weeks you will get five, because there will be departments of one and then departments of hundreds. So it will vary, so they have a plus or minus factor of four. So anywhere between 11 and 19 boxes could come across." Page 111, lines 9-17

Plaintiffs would like a status update, as requested earlier and above from Counsel Witty.

Plaintiffs are in the process of scheduling the time consuming and expensive process of document review, and are handicapped in their scheduling efforts by UMC's failure to provide an update regarding your prior orders relative to hard copy documents. Plaintiffs are aware that the Panzeri documents are available for review next week, but have not been provided an update relating to the assignment sheets, schedules and attestation forms, among other hard copy documents.

I am available for a call if your preference is to handle this directly on the phone.

Regards,  
Jon

# **EXHIBIT E**





Anthony Carter <acarter@tostrudlaw.com>

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**RE: UMC/Small: document inspection**

1 message

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Witty, Cayla <Cayla.Witty@lewisbrisbois.com>

Thu, Jul 10, 2014 at 6:28 PM

To: Daniel Garrie <daniel@lawandforensics.com>, Jon Tostrud <jtostrud@tostrudlaw.com>

Cc: "Marc L. Godino, Esq." <mgodino@glancylaw.com>, Anthony Carter <acarter@tostrudlaw.com>, "david@omaralaw.net" <david@omaralaw.net>, Kara Wolke <kwolke@glancylaw.com>, "Freeman, Robert" <Robert.Freeman@lewisbrisbois.com>, "Foley, Margaret" <Margaret.Foley@lewisbrisbois.com>, "Ginapp, Kristol" <Kristol.Ginapp@lewisbrisbois.com>, "Adams, Michelle" <Michelle.Adams@lewisbrisbois.com>, "Thayer, Lisa" <Lisa.Thayer@lewisbrisbois.com>, "Freeman, Kristen" <Kristen.Freeman@lewisbrisbois.com>

Special Master Garrie,

I apologize for the delay, but these large group emails are being caught in our firm's spam filter. Please accept our response below.

1) Counsel for UMC noted that 87 different departments would need to be contacted. We have identified multiple timekeepers for attestation forms in many departments. There is no list of 87 individuals.

2) UMC has produced meeting minutes if found in ESI and responsive to the search terms. For hard copies, UMC is preparing minutes for departmental meetings for inspection.

3) When Plaintiffs' counsel has completed inspection of the pay period documents, UMC will be able to produce documents from departments on schedule. As UMC does not believe the pay period document inspection will be completed next week, those documents are not being moved to the viewing space.

Cayla

Sent from my Windows Phone

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# **EXHIBIT F**



Anthony Carter <acarter@tostrudlaw.com>

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**RE: UMC/Small: document inspection**

1 message

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Daniel Garrie <daniel@lawandforensics.com>

Thu, Jul 10, 2014 at 6:46 PM

To: Jon Tostrud <jtostrud@tostrudlaw.com>, "Witty, Cayla" <Cayla.Witty@lewisbrisbois.com>

Cc: "Marc L. Godino, Esq." <mgodino@glancylaw.com>, Anthony Carter <acarter@tostrudlaw.com>, david@omaralaw.net, Kara Wolke <kwolke@glancylaw.com>, "Freeman, Robert"

<Robert.Freeman@lewisbrisbois.com>, "Foley, Margaret" <Margaret.Foley@lewisbrisbois.com>, "Ginapp, Kristol"

<Kristol.Ginapp@lewisbrisbois.com>, "Adams, Michelle" <Michelle.Adams@lewisbrisbois.com>, "Thayer, Lisa"

<Lisa.Thayer@lewisbrisbois.com>, "Freeman, Kristen" <Kristen.Freeman@lewisbrisbois.com>, Bruce Pixley

<bruce@pixleyforensics.com>, Doug Forrest <dforrest@ilsteam.com>, daniel@lawandforensics.com

Counsel Tostrud –

I have reviewed your email and find that UMC has failed to comply with my Order. I am Ordering UMC to comply immediately with my prior Orders or appeal to Judge Leen.

Special Master Garrie

# **EXHIBIT G**





Anthony Carter <acarter@tostrudlaw.com>

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## FW: UMC/Small: document inspection

1 message

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Foley, Margaret <Margaret.Foley@lewisbrisbois.com>

Fri, Jul 11, 2014 at 1:37 PM

To: "Focused Solution (daniel@lawandforensics.com)" <daniel@lawandforensics.com>

Cc: "Witty, Cayla" <Cayla.Witty@lewisbrisbois.com>, "Freeman, Robert" <Robert.Freeman@lewisbrisbois.com>, "Jon Tostrud (jtostrud@tostrudlaw.com)" <jtostrud@tostrudlaw.com>, "mgodino@glancylaw.com" <mgodino@glancylaw.com>, "Anthony Carter (acarter@tostrudlaw.com)" <acarter@tostrudlaw.com>, "David O'Mara, Esq. (david@omaralaw.net)" <david@omaralaw.net>, "Kara Wolke (kwolke@glancylaw.com)" <kwolke@glancylaw.com>, "Ginapp, Kristol" <Kristol.Ginapp@lewisbrisbois.com>, "Adams, Michelle" <Michelle.Adams@lewisbrisbois.com>, "Thayer, Lisa" <Lisa.Thayer@lewisbrisbois.com>, "Freeman, Kristen" <Kristen.Freeman@lewisbrisbois.com>, "Bruce Pixley (bruce@pixleyforensics.com)" (bruce@pixleyforensics.com)" <bruce@pixleyforensics.com>, "Doug Forrest (dforrest@ilsteam.com)" <dforrest@ilsteam.com>

Special Master Garrie,

I write with respect to the document inspection and production and timing generally.

### DEPARTMENTAL DOCUMENTS AND PAY PERIOD DOCUMENTS AT UMC

UMC will produce the additional records from the departments but will need a bit of time. We have been gathering them, but will need a bit of time to gather the rest and scan and produce them as a consequence of the misunderstanding among counsel about the import of the verbal directive from the June 16<sup>th</sup> hearing.

Both Counsel Witty and myself believe that these documents were to be prepared for inspection, with the preliminary steps of creating a draft index, plaintiffs' counsel reviewing the index, and then the items on the index selected for viewing by plaintiffs were to be made available for inspection. Unfortunately, this topic seems to have been the subject of one or more off-the-record discussions not commemorated in the hearing transcripts. Based on our understanding and hearing notes, Counsel Witty and I prioritized and scheduled the departmental documents to be gathered for counsel's inspection following the review of the pay period documents, which are quite voluminous. We have been working with UMC personnel to have these boxes of pay period documents put in a room in preparation for counsel's arrival next week and can confirm many of the boxes are in the room today.

I expect to be able to give you a status report on the anticipated production by the middle of next week. After speaking to one of the paralegals currently working on document identification and gathering on-site at UMC today, I understand there are several boxes and filing cabinet drawers of documents identified, which are ready to be copied starting next week for the initial round of rolling production, to continue under the

schedule made for inspection.

## TIMING

I apologize that the production cannot begin immediately per your order, but in the past you have expressed recognition of the numerous tasks ordered of UMC and advised UMC counsel of some flexibility in priorities and stated deadlines. Notably, at the hearing last Friday, you recognized that some priorities may need to be shifted in light of others, including the proposed findings of fact and conclusions of law due today. With the number of orders extant and additional orders made over the course of the hearings, UMC stated it would continue to produce as best it could and notify the group about possible extensions needed. Please see attached excerpts from July 3 rough transcript at pages 107-113.

Also, at the hearing on June 4<sup>th</sup>, you stated that some deadlines might be extended if needed and UMC is to devote additional associate and other resources to this case. Additionally, you stated that counsel would have one week to work on the findings of fact and conclusions of law. Please see attached excerpts from June 4 hearing at pages 132, 180, 186.

UMC has added numerous additional attorney and paralegal resources to comply with pending requests per your request. Using today as a snapshot, there are five attorneys and two paralegals working on this case as we speak. UMC counsel would be most grateful for the opportunity to have one day (not one week as contemplated) to work on the proposed findings of fact and conclusions of law as they are due today.

Thank you for your consideration,

Margaret

**Margaret G. Foley**  
**Partner**  
Las Vegas Rainbow  
702.693.4366 or x4366

**LEWIS  
BRISBOIS  
BISGAARD  
& SMITH LLP**  
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**Partner**  
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Las Vegas, NV 89118

T: 702.693.4366 F: 702.893.3789

# **EXHIBIT H**





Anthony Carter <acarter@tostrudlaw.com>

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**Re: FW: UMC/Small: document inspection**

1 message

---

Jon Tostrud <jtostrud@tostrudlaw.com>

Fri, Jul 18, 2014 at 5:21 PM

To: Daniel Garrie <daniel@lawandforensics.com>

Cc: "Foley, Margaret" <Margaret.Foley@lewisbrisbois.com>, "Witty, Cayla" <Cayla.Witty@lewisbrisbois.com>, "Freeman, Robert" <Robert.Freeman@lewisbrisbois.com>, "Marc L. Godino, Esq." <mgodino@glancylaw.com>, Anthony Carter <acarter@tostrudlaw.com>, "David O'Mara, Esq." <david@omaralaw.net>, Kara Wolke <kwolke@glancylaw.com>, "Ginapp, Kristol" <Kristol.Ginapp@lewisbrisbois.com>, "Adams, Michelle" <Michelle.Adams@lewisbrisbois.com>, "Thayer, Lisa" <Lisa.Thayer@lewisbrisbois.com>, "Freeman, Kristen" <Kristen.Freeman@lewisbrisbois.com>, "Bruce Pixley (bruce@pixleyforensics.com)" <bruce@pixleyforensics.com>, Doug Forrest <dforrest@ilsteam.com>, Jon Tostrud <jtostrud@tostrudlaw.com>

Special Master Garrie:

As sanctions for UMC's violations of your clear and unambiguous Order referenced in your prior email, Plaintiffs seek the following:

- (1) A per diem fine of \$5,000.00;
- (2) Attorneys' fees; and
- (3) Costs.

Additional sanctions are available and Plaintiffs are willing to brief this issue for you no later than end of day Monday if you would like.

Regards,  
Counsel Tostrud

On Fri, Jul 18, 2014 at 4:09 PM, Daniel Garrie <daniel@lawandforensics.com> wrote:

Counsel for UMC –

Comply with my prior Order. Please clarify as to the hold-up and either respond in writing or call Plaintiff.

Counsel for Plaintiffs –

What relief would request for UMC breach of the Order?

Special Master Garrie



**From:** Jon Tostrud [mailto:[jtostrud@tostrudlaw.com](mailto:jtostrud@tostrudlaw.com)]  
**Sent:** Friday, July 18, 2014 5:45 PM  
**To:** Foley, Margaret  
**Cc:** Focused Solution ([daniel@lawandforensics.com](mailto:daniel@lawandforensics.com)); Witty, Cayla; Freeman, Robert; [mgodino@glancylaw.com](mailto:mgodino@glancylaw.com); Anthony Carter ([acarter@tostrudlaw.com](mailto:acarter@tostrudlaw.com)); David O'Mara, Esq. ([david@omaralaw.net](mailto:david@omaralaw.net)); Kara Wolke ([kwolke@glancylaw.com](mailto:kwolke@glancylaw.com)); Ginapp, Kristol; Adams, Michelle; Thayer, Lisa; Freeman, Kristen; Bruce Pixley ([bruce@pixleyforensics.com](mailto:bruce@pixleyforensics.com)) ([bruce@pixleyforensics.com](mailto:bruce@pixleyforensics.com)); Doug Forrest ([dforrest@ilsteam.com](mailto:dforrest@ilsteam.com)); Jon Tostrud  
**Subject:** Re: FW: UMC/Small: document inspection

Counsel Foley:

Plaintiffs would appreciate an update on the overdue production of schedules, assignment sheets, payroll correction and attestation forms, and other hard copy documents from the 87 custodians. As you know, Special Master Garrie ordered this several weeks ago. Notwithstanding UMC's violation of Special Master Garrie's order, Plaintiffs are working diligently to schedule and plan for the review of such documents. Your refusal to provide specific information concerning the production of the departmental materials makes it virtually impossible to schedule the review and, in fact, further prejudices Plaintiffs in this matter. Please provide details by the close of business today as Plaintiffs intend to review those documents next week at UMC.

Regards,

Counsel Tostrud

# **EXHIBIT I**



---

**RE: UMC -- request for immediate hearing**

1 message

---

Foley, Margaret <Margaret.Foley@lewisbrisbois.com>

Tue, Jul 29, 2014 at 11:29 AM

To: Jon Tostrud <jtostrud@tostrudlaw.com>, "daniel@lawandforensics.com" <daniel@lawandforensics.com>

Cc: "kwolke@glancylaw.com" <kwolke@glancylaw.com>, "acarter@tostrudlaw.com" <acarter@tostrudlaw.com>, "Marc L. Godino" <MGodino@glancylaw.com>, "<rantonio@glancylaw.com>" <RAntonio@glancylaw.com>, David O'Mara <david@omaralaw.net>, "Witty, Cayla" <Cayla.Witty@lewisbrisbois.com>, "Freeman, Robert" <Robert.Freeman@lewisbrisbois.com>

Special Master Garrie:

Plaintiffs' counsel are aware the documents they seek are to be produced to them instead of inspected. They failed to respond to emails last week asking them the status of their inspection. There is no dispute here from UMC's standpoint. I agreed as a courtesy to have a call with Special Master Garrie and will forward the relevant emails now.

Thank you,

Margaret Foley

Margaret G. Foley

Partner

[Margaret.Foley@lewisbrisbois.com](mailto:Margaret.Foley@lewisbrisbois.com)

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# **EXHIBIT J**



Anthony Carter &lt;acarter@tostrudlaw.com&gt;

## Re: document inspection today

- 1 message -

Thu, Jul 31, 2014 at 11:58 AM

Kara Wolke &lt;KWolke@glancylaw.com&gt;

To: "Witty, Cayla" &lt;Cayla.Witty@lewisbrisbois.com&gt;

Cc: "Foley, Margaret" &lt;Margaret.Foley@lewisbrisbois.com&gt;, "Adams, Michelle" &lt;Michelle.Adams@lewisbrisbois.com&gt;, "Thayer, Lisa" &lt;Lisa.Thayer@lewisbrisbois.com&gt;, "Freeman, Kristen" &lt;Kristen.Freeman@lewisbrisbois.com&gt;, "Marc L. Godino" &lt;MGodino@glancylaw.com&gt;, J Tostrud &lt;jtostrud@tostrudlaw.com&gt;, Anthony Carter &lt;acarter@tostrudlaw.com&gt;, Rayo Antonio &lt;RAntonio@glancylaw.com&gt;, Daniel Garie &lt;daniel@lawandforensics.com&gt;

Ms. Witty:

We're disappointed that UMC has failed to provide departmental documents for our review today, and we do believe this is a violation of Special Master Garie's previous orders on hard copy review, including his order from as recently as this past Tuesday.

But thank you for finally letting us know that no additional documents are ready. Now that we at least know the status, we do not think a call with Special Master Garie is necessary at this time.

Please let us know when the inspection can resume.

Regards,  
Kara

Sent from my iPhone

On Jul 31, 2014, at 11:43 AM, "Witty, Cayla" &lt;Cayla.Witty@lewisbrisbois.com&gt; wrote:

Kara,

Your patience is appreciated. At this time, UMC does not have additional departmental documents for inspection. While counsel is working furiously to collect from the departments, logistically UMC is not able to move significant documents immediately due to the ongoing Joint Commission survey. We will notify you immediately when we have an update on new documents.

I am available to conference at any time this afternoon.

Yours sincerely,

Cayla\*

P.S. This email was likely written on a mobile device. Please forgive any shortened phrases, auto-corrected words, or other grammatical oddities. Thank you.



Cayla Witty

Attorney

Cayla.Witty@lewisbrisbois.com

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# **EXHIBIT K**

Rough Draft of Special Master's Hearing July 25, 2014  
\*\*\* Telephonic \*\*\*

Page 119

1 communications from you, Special Master, that spoke  
2 to production and not inspection.

3 SPECIAL MASTER GARRIE: I assumed that the  
4 inspection was to occur on-site, and that there was  
5 an index to be provided. And that after certain  
6 documents were identified, they were to be produced.

7 So I'm not -- I understand that UMC might  
8 have interpreted that differently. I'm not exactly  
9 sure how that was done.

10 But at least I understand that in the  
11 short. I'm going to let UMC provide me -- I'm going  
12 to put all parties -- plaintiffs, is there anything  
13 you would like to state?

14 MR. GODINO: Other than from our  
15 perspective, there has been no confusion. There's  
16 been no specific correspondence that would support  
17 what was just stated.

18 SPECIAL MASTER GARRIE: Okay. So counsel  
19 for UMC, I'm going to -- I'm going to take a minute  
20 and think about what was just said, and read my  
21 notes. So I'm going to ask the parties to wait for a  
22 minute or two.

23 (A discussion was held off the record.)

24 SPECIAL MASTER GARRIE: Counsel for UMC, I  
25 have heard your arguments as you set forth. I do not

## Exhibit B



**LEWIS  
BRISBOIS  
BISGAARD  
& SMITH LLP**

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July 31, 2014

File No.  
32352.0016

**CAYLA WITTY**  
DIRECT DIAL: 702.693.4387  
CAYLA.WITTY@LEWISBRISBOIS.COM

**VIA ELECTRONIC MAIL ONLY**

Special Master Daniel Garrie  
E-Mail: daniel@lawandforensics.com

RE: Recent Paper Documents Indexing and Production Issues in *Small, et al. v. UMC*

Dear Special Master Garrie:

Please accept this briefing from UMC on the interrelated indexing and production issues involving certain UMC paper documents, as discussed at the telephonic hearing of Friday, July 25<sup>th</sup>. To summarize, the parties seemed earlier this summer to be proceeding in a collaborative manner towards document inspection at UMC. The parties were following an indexing process, directed and approved by the Court, for identifying and selecting documents for Plaintiffs' counsel to inspect.

The protocol was quite successful as to payroll period documents kept by Jackie Panzieri. These documents have been reviewed at UMC by Plaintiffs' counsel, and UMC plans to copy and send them as soon as the Court will permit.

Unfortunately, the process went awry for the departmental documents concerning scheduling, attestations, and meeting minutes. Based on the Special Master proceedings and discussions among counsel, an index was jointly prepared by the parties to identify documents. As the parties prepared for the inspection of documents, communications broke down. Following Mr. Tostrud's insistence in emails that UMC had violated a court order, the Special Master ordered by email on July 10<sup>th</sup> that UMC begin "producing" the documents "immediately" to comply with his order of June 16<sup>th</sup>.<sup>1</sup> UMC therefore began scanning the documents and overnighting them to Plaintiffs on CD's to comply.<sup>2</sup> It became apparent just this past week

<sup>1</sup> See attached Exhibit A (email chain among counsel and Special Master Garrie dated July 10<sup>th</sup>, and culminating in order to UMC to produce documents immediately per prior orders).

<sup>2</sup> A number of federal courts have explained that, for documents, the default response to a request for production is to simply turn over the documents to the requesting party. See, e.g., *Compagnie des Bauxites v. Ins. Co. of N. Am.*, 651 F.2d 877, 883 (3d Cir. 1981); *Caruso v. Coleman Co.*, 157 F.R.D. 344, 349 (E.D. Pa. 1994) ("where the volume of [documentary] material sought would make copying and transporting burdensome and oppressive to the producing party . . . the court may decline to order production and may instead order that the requesting party inspect the documents"); *Baine v. General Motors Corp.*, 141 F.R.D. 328, 331 (M.D. Ala. 1991) (upon proper showing of burden, "the court may demure from ordering production and may instead order inspection in a manner convenient to the party in possession."); see also 7-34 Moore's Federal Practice - Civil § 34.13[2][a] ("[i]n lieu of actual production of (footnote continued)

Special Master Daniel Garrie  
 July 31, 2014  
 Page 2

that serious misunderstandings between the parties had occurred with respect to the production. Making the situation even worse, undersigned UMC counsel learned there had been no meeting of the minds as to what the July 10<sup>th</sup> order, incorporating the June 16<sup>th</sup> order,<sup>3</sup> meant by "producing" documents "immediately." UMC's undersigned counsel believed in good faith that they were complying with the July 10<sup>th</sup> order, but events of the past week revealed that UMC's interpretation of "immediately" "producing" the documents did not match the Special Master's expectation of how the July 10<sup>th</sup> order was to be carried out. To UMC's counsel's great dismay, the doctrine of "mutual mistake," studied by first-year law students across the country, seemed to have come startlingly alive.<sup>4</sup> UMC thought that the July 10<sup>th</sup> order was instructing them to scan and send the documents, while Special Master Garrie clearly believed he was telling UMC to ready the documents for an on-site inspection. UMC, informed of its error, has ceased scanning documents and is making them available for inspection pending any further order of the Court.

#### Indexing of Documents

UMC believes it has properly complied with the indexing process ordered. The index was jointly prepared by the parties to identify documents before inspection, not to facilitate document review on-site as asserted.<sup>5</sup> Beginning at the April Special Master hearings, the parties discussed how the index would be prepared to educate Plaintiffs' counsel as to the hard-copy documents in Ms. Panzieri's office and the hospital departments that Plaintiffs could review on-site at UMC.<sup>6</sup> A letter and draft index from Ms. Witty to Special Master Garrie detailing discussions for the index creation by the parties is attached hereto as Exhibit B.

#### Communications Regarding Production of Hard Copy Documents

UMC has expressed a multitude of concerns with regards to ongoing communications relating to hard copy documents. Specifically, during the week of July 7, 2014, Plaintiffs' communications to the Special Master and parties altered the review process from an inspection at UMC to full-scale production of scanned and OCR'd attestation forms, departmental meeting minutes, and schedule documents. UMC has begun this process, and as noted on July 25, 2014, had planned to continue to make near-daily productions in

documents, a party may . . . allow the requesting party to inspect and copy the documents . . . [t]he answer to a request for production is generally either: (1) actual production of the documents, or (2) an objection signed by the attorney making the objection."). UMC understood the immediate production to mean produce the documents directly. UMC had assumed this direct production would benefit Plaintiffs' counsel as well, given the context that Mr. Tostrud had made clear in an email dated June 27<sup>th</sup> that "[i]t is very expensive and time-consuming for Plaintiffs to engage in this review". See Exhibit A at 5.

<sup>3</sup> As described by Magistrate Judge Brazil, one of the dangers of informal special master proceedings is imprecision that can lead to further problems. "Informality may create a related danger of imprecision. If the neutral renders fuzzy decisions, or imposes poorly-specified obligations, he sets the stage for breaches, disputes, and disillusion. . . . These unfortunate consequences of imprecision can be especially troublesome and costly in complex cases, where duties are less self-evident and where the ripple effects of poor communication on one matter can extend to many others." See Brazil, SYMPOSIUM ON LITIGATION MANAGEMENT: Special Masters in Complex Cases, 53 U. Chi. L. Rev. 394, 420-21 (Spring, 1986). UMC respectfully submits that ambiguity in the July 10<sup>th</sup> order, incorporating in turn the slightly-unclear June 16<sup>th</sup> oral order, has led UMC to foreseeably misinterpret its production obligations here. UMC's unintentional missteps should be forgiven and no sanctions ought to be imposed in this unfortunate situation. UMC stands corrected and respectfully seeks the Court's direction on where to go from here.

<sup>4</sup> In the famous case of *Raffles v. Wichelhaus*, 159 Eng. Rep. 375 (1864), the parties agreed to a sale of cotton to be transported from Bombay by a ship called *Peerless*. However, there were two ships named *Peerless*, one sailing in October and the other in December. The seller understood the deal to refer to the December ship, while the buyer thought the October *Peerless* would bring his cotton. See *id.* Here, analogously, UMC thought "production" meant one thing while the Court thought it meant another thing.

<sup>5</sup> See Rough Transcript 7/25/14 at 115-117 (parties' respective positions explained by Ms. Witty and Mr. Godino).

<sup>6</sup> See Transcript 4/22/14 at 200-231, Transcript 5/1/14 at 54-55, Transcript 5/6/14 at 194-196, Transcript 6/16/14 at 106-112.



Special Master Daniel Garrie  
July 31, 2014  
Page 3

accordance with the Second Amended ESI Protocol Order until ordered halted by Special Master Garrie. Moreover, Plaintiffs and the Special Master were on notice as of July 11<sup>th</sup> that the departmental documents would be scanned and produced, not set out for inspection at UMC, in response to Special Master Garrie's and Counsel Tostrud's emails. Ms. Foley made clear in her email of June 11<sup>th</sup> at 1:37 p.m. that the departmental documents would be gathered, scanned and produced as a result of Special Master Garrie's order, rather than produced for inspection, while the pay period documents would still be made available for inspection.<sup>7</sup>

Notwithstanding this dispute as to departmental documents (described more fully above), UMC provided pay period documents used by the Payroll department in processing for inspection on July 16, 2014. This group of documents initially contained 81 boxes with documents ranging from 2008 through 2012. Plaintiffs' counsel inspected these documents over 1.5 days. Following this brief inspection, counsel for UMC attempted to determine what all had been accomplished. The parties disagreed about the box count, there was an issue with providing a custodian of record declaration, and no clear understanding was reached with regard to the need for ongoing inspection of the pay period documents.

When Plaintiffs' counsel returned on July 28, 2014 to continue, it was only then that it was understood that Plaintiffs' counsel had finished with the 81 boxes, rather than 63 boxes as Plaintiffs' counsel had asserted. Thirteen additional boxes from 2013 were acquired for inspection to start July 29, 2014 to accommodate Plaintiffs' counsel, despite their failure to respond to specific questions last Thursday put to them by UMC counsel in emails concerning: (1) the box count, (2) the meaning of Plaintiffs' post-it notes saying "done" on certain boxes, and (3) which boxes might be moved out so others could be moved in.

Mr. Godino called Ms. Foley on the morning of July 29<sup>th</sup> and asserted his readiness to review additional documents. Ms. Foley explained that the additional 13 boxes of pay period documents were all that had been prepared for inspection, because the departmental documents were being scanned and produced in full on CD to Plaintiffs' counsel. Moreover, Ms. Foley had not received a response to emailed questions Thursday afternoon that, if answered, might have warned UMC of some potential misunderstanding regarding the inspection.

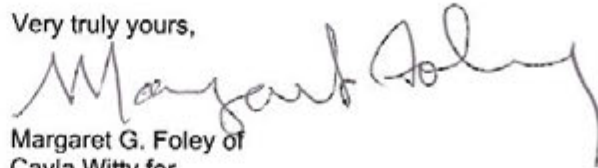
Further, Plaintiffs' counsel was fully aware that UMC was sending them documents in addition to making the Panzeri documents available for inspection. The departmental document production was discussed on the telephone with Special Master Garrie Friday, July 25, 2014, and on July 28, 2014. Plaintiffs' counsel attended both of those telephonic hearings and verified that they had received documents from UMC on CD.

---

<sup>7</sup> In her lengthy email sent to Special Master Garrie in advance of the July 29<sup>th</sup> telephone conference regarding document production, Counsel Wolke specifically referenced Counsel Foley's email of June 11<sup>th</sup> at 1:37 p.m., but neglected to acknowledge the email's content as a whole, which specifically stated that departmental documents would be gathered, scanned, and produced, as opposed to payroll period documents to be made available for inspection.

Special Master Daniel Garrie  
July 31, 2014  
Page 4

Very truly yours,

A handwritten signature in black ink, appearing to read "Margaret Foley", written in a cursive style.

Margaret G. Foley of  
Cayla Witty for  
LEWIS BRISBOIS BISGAARD & SMITH LLP

MGF:gfr  
Attachments  
cc: All Counsel (by email)

# EXHIBIT "A"

## Foley, Margaret

---

**From:** Daniel Garrie <daniel@lawandforensics.com>  
**Sent:** Thursday, July 10, 2014 6:47 PM  
**To:** 'Jon Tostrud'; Witty, Cayla  
**Cc:** 'Marc L. Godino, Esq.'; 'Anthony Carter'; david@omaralaw.net; 'Kara Wolke'; Freeman, Robert; Foley, Margaret; Ginapp, Kristol; Adams, Michelle; Thayer, Lisa; Freeman, Kristen; 'Bruce Pixley'; 'Doug Forrest'; daniel@lawandforensics.com  
**Subject:** RE: UMC/Small: document inspection

Counsel Tostrud –

I have reviewed your email and find that UMC has failed to comply with my Order. I am Ordering UMC to comply immediately with my prior Orders or appeal to Judge Leen.

Special Master Garrie

**From:** Jon Tostrud [mailto:jtostrud@tostrudlaw.com]  
**Sent:** Thursday, July 10, 2014 9:40 PM  
**To:** Witty, Cayla  
**Cc:** Daniel Garrie; Marc L. Godino, Esq.; Anthony Carter; david@omaralaw.net; Kara Wolke; Freeman, Robert; Foley, Margaret; Ginapp, Kristol; Adams, Michelle; Thayer, Lisa; Freeman, Kristen; Jon Tostrud; Bruce Pixley (bruce@pixleyforensics.com); Doug Forrest  
**Subject:** Re: UMC/Small: document inspection

Special Master Garrie:

With all due respect, and for the record, UMC's position with respect to #3 above is a complete reversal of the position that we painstakingly detailed out, and agreed to, in court. The parties clearly and unequivocally agreed on a rolling production of schedules, assignment sheets and attestation forms. Moreover, and most importantly, you ORDERED such a production to occur.

UMC has never sought relief from your order and, as Counsel Witty once again confirmed this evening with her email, UMC is in contempt of court. Plaintiffs intend to address this issue in our July 11 submission and will contact UMC counsel Monday to schedule a status conference with Judge Leen.

Please contact me with any questions or concerns.

Regards,  
Jon

On Thu, Jul 10, 2014 at 6:28 PM, Witty, Cayla <Cayla.Witty@lewisbrisbois.com> wrote:

Special Master Garrie,

I apologize for the delay, but these large group emails are being caught in our firm's spam filter. Please accept our response below.

1) Counsel for UMC noted that 87 different departments would need to be contacted. We have identified multiple



timekeepers for attestation forms in many departments. There is no list of 87 individuals.

2) UMC has produced meeting minutes if found in ESI and responsive to the search terms. For hard copies, UMC is preparing minutes for departmental meetings for inspection.

3) When Plaintiffs' counsel has completed inspection of the pay period documents, UMC will be able to produce documents from departments on schedule. As UMC does not believe the pay period document inspection will be completed next week, those documents are not being moved to the viewing space.

Cayla

Sent from my Windows Phone

---

**From:** Daniel Garrie

**Sent:** 7/10/2014 5:06 PM

**To:** 'Jon Tostrud'; Witty, Cayla

**Cc:** 'Marc L. Godino, Esq.'; 'Anthony Carter'; david@omaralaw.net; 'Kara Wolke'; Freeman, Robert; Foley, Margaret; Ginapp, Kristol; Adams, Michelle; Thayer, Lisa; Freeman, Kristen

**Subject:** RE: UMC/Small: document inspection

Counsel for UMC –

Please advise before 5pm PST today as to the status of the duties set-forth below.

Daniel Garrie

**From:** Jon Tostrud [mailto:jtostrud@tostrudlaw.com]

**Sent:** Thursday, July 10, 2014 4:34 PM

**To:** Witty, Cayla; Focused Solution

**Cc:** Marc L. Godino, Esq. (mgodino@glancylaw.com); Anthony Carter (acarter@tostrudlaw.com); david@omaralaw.net; Kara Wolke (kwolke@glancylaw.com); Freeman, Robert; Foley, Margaret; Ginapp, Kristol; Adams, Michelle; Thayer, Lisa; Freeman, Kristen; Jon Tostrud

**Subject:** Re: UMC/Small: document inspection

Special Master Garrie:

You ordered during the June 16, 2014 hearing the following:

(1) "I'm also going to order UMC by the end of next week to have identified all the 87 individuals to collect the attestation forms from." Page 110, lines 22-24

Plaintiffs are not aware if the identifications of these individuals has occurred?



(2) "I'm going to also order UMC to, by the end of next week, to have started producing the meeting minutes and other items..." Page 110, line 25-111, line 2

Plaintiffs would like to know if these meeting minutes have been produced?

(3) "I'm also going to order UMC to do their best efforts to clear 15 departments a week. Recognizing from plaintiffs' side that there will be some weeks when you will get 20 and some weeks you will get five, because there will be departments of one and then departments of hundreds. So it will vary, so they have a plus or minus factor of four. So anywhere between 11 and 19 boxes could come across." Page 111, lines 9-17

Plaintiffs would like a status update, as requested earlier and above from Counsel Witty.

Plaintiffs are in the process of scheduling the time consuming and expensive process of document review, and are handicapped in their scheduling efforts by UMC's failure to provide an update regarding your prior orders relative to hard copy documents. Plaintiffs are aware that the Panzeri documents are available for review next week, but have not been provided an update relating to the assignment sheets, schedules and attestation forms, among other hard copy documents.

I am available for a call if your preference is to handle this directly on the phone.

Regards,  
Jon

On Tue, Jul 8, 2014 at 9:13 AM, Jon Tostrud <[jtostrud@tostrudlaw.com](mailto:jtostrud@tostrudlaw.com)> wrote:

Counsel Witty:

Plaintiffs will provide 72 hour notice. I simply wanted to give you as much advance notice as possible that we intend to move quickly through the hard copy documents. In order to keep costs down and proceed as efficiently as possible, the hard copy review process will require tremendous coordination with UMC.

Special Master Garrie laid out a production schedule for hard copy documents, including, but not limited to, schedules and assignment sheets. Would you please advise on the status of that production?

Regards,  
Jon

On Mon, Jul 7, 2014 at 5:54 PM, Witty, Cayla <[Cayla.Witty@lewisbrisbois.com](mailto:Cayla.Witty@lewisbrisbois.com)> wrote:

Counsel Tostrud,

UMC is confirming that the document inspection room will be available July 16 & 17. The inspection room is located on the 5<sup>th</sup> floor of the Trauma Building, Conf. Room 510. Could you please provide us with how many parking spaces will

be needed for the group so that we can arrange for parking and have someone available to meet and escort you to the inspection room?

As for the weekly inspection dates, could you please explain how the 72 hour advance notice will work if you intend to be in Las Vegas for inspection each week? We will keep you up to date on the availability of documents in accordance with the proposed schedule as well as monitor how quickly the inspections move. I can also inform you that there will be no hospital governing board meeting agendas or minutes to inspect in hard copy format as those documents are only kept in electronic form. The electronic folders that contain these documents are a part of the 7 high priority custodian Q drive repository, and have been searched and will be produced in accordance with the ESI protocol order.

If you have additional information to confirm or discuss, please let us know when you are available to do so this week.

Thank you.

Cayla\*

**From:** Jon Tostrud [<mailto:jtostrud@tostrudlaw.com>]

**Sent:** Monday, July 07, 2014 3:55 PM

**To:** Witty, Cayla

**Cc:** Marc L. Godino, Esq. ([mgodino@glancylaw.com](mailto:mgodino@glancylaw.com)); Anthony Carter ([acarter@tostrudlaw.com](mailto:acarter@tostrudlaw.com)); [david@omaralaw.net](mailto:david@omaralaw.net); Kara Wolke ([kwolke@glancylaw.com](mailto:kwolke@glancylaw.com)); [daniel@lawandforensics.com](mailto:daniel@lawandforensics.com); Freeman, Robert; Foley, Margaret; Ginapp, Kristol; Adams, Michelle; Thayer, Lisa; Freeman, Kristen; Jon Tostrud

**Subject:** Re: UMC/Small: document inspection

Counsel Witty:

Will you please confirm that the document repository will be available July 16 and 17? We plan on arriving at 9:30 am the morning of the 16th. I also request that you confirm the other details in my prior email (ie that the repository be made available on a weekly basis beginning July 16). I am happy to discuss this if you'd like to. Regards,

Jon

On Fri, Jun 27, 2014 at 11:33 AM, Jon Tostrud <[jtostrud@tostrudlaw.com](mailto:jtostrud@tostrudlaw.com)> wrote:

Counsel Witty:

Please add Marc Godino to the list of attorneys attending the July 16 and 17 review.

Regards,  
Jon

On Fri, Jun 27, 2014 at 11:18 AM, Jon Tostrud <[jtostrud@tostrudlaw.com](mailto:jtostrud@tostrudlaw.com)> wrote:

Counsel Witty:

Thanks for arranging the room at UMC. Attached is a draft custodian of records declaration.

Plaintiffs plan their first review of documents on July 16 and 17. Lawyers attending that first session will be Jon Tostrud, Anthony Carter, Kara Wolke and Rayo Antonio.

Going forward, Plaintiffs will provide UMC with at least 72 hour advance notice of their intent to review documents and the individual lawyers who will be engaged in the review process. Plaintiffs most likely will review documents on a weekly basis and be at the hospital for 2-3 days a week for the next several months. We expect that UMC will advise Plaintiffs if the hard copy document production schedule ordered by Special Master Garrie cannot be met. It is very expensive and time-consuming for Plaintiffs to engage in this review and we would like to avoid the situation where we show up to review documents only to learn that UMC has not met the production schedule.

Finally we will keep the total number of reviewers at any one time under 10 lawyers.

Please contact me with any questions or concerns.

Regards,  
Jon

On Fri, Jun 20, 2014 at 11:46 AM, Witty, Cayla <[Cayla.Witty@lewisbrisbois.com](mailto:Cayla.Witty@lewisbrisbois.com)> wrote:

Plaintiffs:

UMC has arranged for a room for inspection to begin. UMC needs to know the specific dates and times counsel will be inspecting documents.

Also, UMC requests that the individuals appearing for inspection of documents be identified ahead of appearing and, if at all possible be limited to less than 10. Space at UMC is at a dire premium, and the room will be very restricted with 10 individuals within. Due to privacy concerns and confidentiality of information,

# EXHIBIT “B”



**LEWIS  
BRISBOIS  
BISGAARD  
& SMITH LLP**  
ATTORNEYS AT LAW

6385 S. Rainbow Boulevard, Suite 600  
Las Vegas, Nevada 89118  
Telephone: 702.893.3383  
Fax: 702.893.3789  
www.lewisbrisbois.com

**MARGARET G. FOLEY**  
DIRECT DIAL: 702.693.4366  
MARGARET.FOLEY@LEWISBRISBOIS.COM

May 15, 2014

File No.  
32352.16

**CAYLA WITTY**  
DIRECT DIAL: 702.693.4387  
CAYLA.WITTY@LEWISBRISBOIS.COM

VIA ELECTRONIC MAIL ONLY

Daniel Garrie, Esq.  
Electronic Discovery Special Master  
6506 3rd Avenue, Suite C  
Seattle, WA 98117  
E-Mail: daniel@lawandforensics.com

Re: Small v. UMC, USDC Case No. 2:13-cv-00298-APG-PAL  
Response to proposed index for hard copy documents

Dear Special Master Garrie:

Please accept this letter in response to Plaintiffs' May 12, 2014 first draft of a hard copy document index. We appreciate Plaintiffs taking the first step in this discussion, but we have several concerns that we believe undermine the value of an undertaking such as this index.

Vague Terms

Several of the terms listed in the far-left column are vague to the point that UMC cannot begin to index any documents. While we do not want to unnecessarily complicate the index form, it is necessary that we have a full and complete understanding of what information is sought to prevent ongoing discovery disputes in this area.

The terms that UMC requests further clarification for are the following: Board Minutes, Calendars, Budgets, Correspondence, and Department of Labor. UMC acknowledges that documents that could be classified as relating to one of these terms could be relevant (and many such documents have been produced in ESI and otherwise). However, due to the breadth of unrelated topics that might touch on these terms, UMC requests additional specification. For example, Plaintiffs' Request for Production of

Daniel Garrie, Esq.  
May 15, 2014  
Page 2

Documents No. 23 requests minutes from meetings discussing wage-and-hour matters related to meal periods and overtime pay. This is significantly different from "Board Minutes." Similarly, UMC continues to identify and produce documents related to the 2012 and 2013 Department of Labor investigation into admitting representatives' complaints regarding lunch interruptions. But the term "Department of Labor" would touch on FMLA and other unrelated issues. If UMC does not receive additional clarification of these terms, it fears that this discovery dispute will continue significantly longer than needed, and will require extraneous time and expense to complete indexing.

#### Unnecessary Elements

There are two elements identified in Plaintiffs' first draft which UMC believes are unnecessary. First, along the columns listed, Plaintiffs list "Missing Documents." UMC argues that this is argumentative, asks for legal conclusion, and cannot be determined for such an index. This is improper in such an index, and will not be included in any index prepared.

Second within the far-left column, Plaintiffs list "Annual Financial Audits." UMC finds this element is vague as to the prospective hospital department and purpose in discovery. Further, UMC cannot determine how this document would be responsive to Plaintiffs' Requests for Production of Documents.

#### Requested Changes

To assist in streamlining the indexing process, UMC has created a second draft proposal for the hard copy document index. A copy is enclosed with this letter. UMC will provide simple explanations for several alterations.

For clarification purposes, UMC delineated that the requested document types apply to opt-in plaintiffs. Following that, UMC has provided two options [listed under "Work Schedules"] to further identify document repositories. The first option is to request only the documents relating to one of the 600-plus opt-ins. This will significantly increase the time required for indexing. The second option is to identify the group for which each opt-in is a part; the option shows Admitting Representatives as one group, nurses on 3 West as another.

UMC also outlined more information for the columns. UMC aims to make sure the information allows Plaintiffs to determine if a document needs to be inspected. The altered columns are as follows:

- Document Description/Type
- Physical Location

Daniel Garrie, Esq.  
May 15, 2014  
Page 3

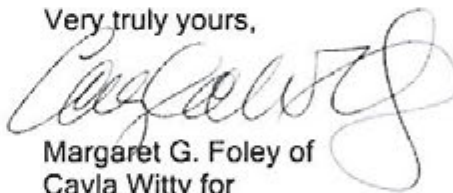
- UMC staff responsible/Source
- Estimated Volume with Source
- Date Range
- Duplicate of previous production?

With regards to the estimated volume with the source, UMC asks that Plaintiffs define how this should be conveyed (e.g., number of boxes, size of binders, page counts, etc.). Then, when assessing date range, UMC will restrict the index to documents responsive to Plaintiffs' Requests for Document Production, i.e., from July 27, 2009 to current. If Plaintiffs are interested in specific time frames within that period for specific document types, UMC is open to discussing more targeted indexing.

UMC looks forward to continued discussion on this topic. With further discussion we can set a reasonable time frame for completing this process. At this time, UMC is unable to assess the time required for indexing documents as the form of the index is vital to understanding the scope of the project.

If further clarification or concerns can be addressed, please do not hesitate to raise these issues.

Very truly yours,



Margaret G. Foley of  
Cayla Witty for  
LEWIS BRISBOIS BISGAARD & SMITH LLP

MGF:CW  
Enclosure  
cc: Plaintiffs' Counsel and ESI Experts



SMALL V. UMC SN, USDC CASE NO. 2:13-CV-00298-APG-PALINDEX FOR HARD COPY DOCUMENTS

Document Description/Type	Physical Location	UMC Staff Responsible/Source	Estimated Volume with Source	Date Range	Duplicate of Previous Production?
Work Schedules for Opt-In-Plaintiffs					
Opt-in A					
Opt-in B					
or					
Admitting Dept					
Nursing 3 West					
Opt-In Plaintiff Assignment Sheets					
Opt-In Plaintiff Corrections Forms					
Opt-In Plaintiff Attestation Forms					
Opt-In Plaintiff Processed PARS					
Opt-In Plaintiff Payroll Adjustments Forms					
Opt-In Plaintiff Off-Cycle Forms					

## SMALL V. UMCSN, USDC CASE NO. 2:13-CV-00298-APG-PAL

## INDEX FOR HARD COPY DOCUMENTS

[illegible]

## Exhibit C



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June 25, 2014

File No.  
32352.16

**CONFIDENTIAL COMMUNICATION**

**VIA ELECTRONIC MAIL ONLY**

Daniel Garrie, Esq.  
Special Master  
6506 Third Avenue, Suite C  
Seattle, WA 98117  
E-Mail: daniel@lawandforensics.com

Re: Small v. UMC, Case No. 2:13-cv-298-APG-PAL  
UMC Time-tracking Systems Outside of Kronos and Clarity

Dear Special Master:

Please accept the following letter in accordance with your request at the June 16, 2014 hearing for additional information regarding UMC time-tracking systems.

TeleTracking

UMC uses TeleTracking v.3.0.1.4 in two departments. The Environmental Services (EVS) department uses BedTracker (Sodexo ST), and the Transport department uses ServiceTracker (Sodexo CMS/XT); both components are used to track assignments, tasks, and locations for employees in these departments, including certain opt-in plaintiffs. Because the employees in these departments do not maintain a central location during shifts, they track their breaks (including meal periods) through the TeleTracking system. Enclosed with this letter are the instructions provided to employees to explain how to use the system. The employee calls in and enters a code to mark that the employee is on break. When the break is completed, the employee calls in to enter a code to mark that the employee is no longer on break. This data is not captured in Kronos, because these departments only use Kronos for clocking in and out for the work day.

UMC is compiling the user manuals for these systems and will provide these documents with a complete copy of the databases. UMC will also provide a list of the

**CONFIDENTIAL COMMUNICATION**

Daniel Garrie, Esq.

June 25, 2014

Page 2

affected opt-in plaintiffs in these departments. Mr. John Rendall, Director of Sodexo at UMC, who supervises both the EVS and Transport staff is assisting with compiling the requested list of opt-in plaintiffs affected; Mr. Rendall also provided the brief explanation of use represented above.

No specific system administrator at UMC is assigned to these databases. Instead, the six system administrators at UMC share responsibilities for all of the databases. Once UMC has produced the full Sodexo databases to Plaintiffs, UMC can arrange for the technical staff to conference with Plaintiffs' ESI consultants regarding this repository.

CrimeStar Records Management System

The Public Safety department at UMC uses Crimestar RMS version 9.9 as their computer-assisted dispatch. Public safety officers at UMC, including certain opt-in plaintiffs, clock-in (and out) for duty through Kronos, the official UMC time-keeping system. Once officially clocked in, the officers are dispatched via radio reports to their assignments. This radio communication is tracked in the computer-assisted dispatch system Crimestar. The public safety officers do not personally enter information into Crimestar; the dispatcher is required to enter in Crimestar the related codes and assignments sent via radio to the officers. One of the codes entered into Crimestar includes a meal break code. The officer would radio in that s/he was taking a break, and the dispatcher would enter this code into Crimestar. When the officer finished the break period, s/he would radio back in to inform the dispatcher that the break was finished. This would also be entered into Crimestar. This data is not captured in Kronos, because the Public Safety officers only use Kronos for clocking in and out for the work day.

UMC is compiling the user manuals for this system and will provide these documents with a complete copy of the database. UMC will also provide a list of the affected opt-in plaintiffs in this department. Mr. Ruben Gurrola, Director of Public Safety at UMC, is assisting with compiling the requested list of opt-in plaintiffs affected; Mr. Gurrola also provided the brief explanation of use represented above.

No specific system administrator at UMC is assigned to this database. However, System Administrator David Williams has the most experience with this complex database. Due to the sensitive nature of the information contained within this database relating to patient care and safety concerns at the hospital, access to this database is extremely limited at UMC. Mr. Williams will be made available to conference with Plaintiffs' ESI consultants regarding this repository, but UMC respectfully requests that the questions directed at Mr. Williams be restricted to the relevant technical structure of Crimestar and not the specific content of database.

**CONFIDENTIAL COMMUNICATION**

Daniel Garrie, Esq.

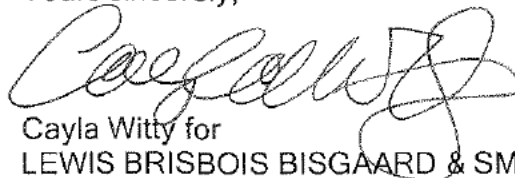
June 25, 2014

Page 3

The three databases outlined above are the time-tracking systems disclosed in the June 16, 2014 Special Master hearing by counsel for UMC. These systems, along with the Kronos and Clarity systems, are the universe of time-tracking systems at UMC. These systems will be produced in full, and UMC will coordinate with Plaintiffs with any continuing technical concerns relating to these systems. The production of these databases is subject to the Second Amended ESI Protocol Order and the Confidentiality and Protective Order in place in this litigation. All information within these databases shall be deemed confidential and will be restricted in use to the to-be-identified opt-ins with related data contained in these databases.

If you have any questions regarding this information, please direct them to me at your earliest convenience.

Yours sincerely,



Cayla Witty for  
LEWIS BRISBOIS BISGAARD & SMITH LLP

CW

cc: Plaintiffs' Counsel  
Plaintiffs' ESI Consultants  
Doug Spring

## Exhibit D



1 ROBERT W. FREEMAN  
Nevada Bar No. 3062  
2 MARGARET G. FOLEY  
Nevada Bar No. 7703  
3 CAYLA WITTY  
Nevada Bar No. 12897  
4 **LEWIS BRISBOIS BISGAARD & SMITH LLP**  
6385 S. Rainbow Boulevard, Suite 600  
5 Las Vegas, Nevada 89118  
702.893.3383  
6 FAX: 702.893.3789  
*Attorneys for Defendant University*  
7 *Medical Center of Southern Nevada*

8  
9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF NEVADA**

11 \*\*\*

12 DANIEL SMALL, CAROLYN  
SMALL, WILLIAM CURTIN, DAVID  
13 COHEN, LANETTE LAWRENCE, and  
LOUISE COLLARD, Individually, and  
14 on Behalf of All Other Persons  
Similarly Situated,

15 Plaintiff,

16 vs.

17 UNIVERSITY MEDICAL CENTER  
18 OF SOUTHERN NEVADA;

19 Defendant.

CASE NO. 2-13-cv-0298-APG - PAL

**DECLARATION OF  
DAVID J. WILLIAMS**

20  
21 I, David J. Williams, hereby declare as follows:

22 1. I am a System Administrator in the University Medical Center of  
23 Southern Nevada (UMC) Information Technology Department (IT). The facts set  
24 forth herein are of my own personal knowledge and if sworn I could and would  
25 testify competently thereto.

26 2. On August 4, 2014, I participated in a Special Master hearing via  
27 teleconference related to the litigation titled *Small et al. v. University Medical*  
28 *Center of Southern Nevada*. I was asked to provide several pieces of information

1 with a supplemental declaration, including contact details for super-users for several  
 2 timekeeping applications, CrimeStar upgrade details, modules used in Teletracking,  
 3 and UMC Human Resources access to Clarity.

#### 4 **TIMEKEEPING APPLICATION SUPERUSERS**

5 3. For Clarity, Mike Oliveri, UMC Senior EHR/ERP Analyst, would be  
 6 most knowledgeable on this system application. Mr. Oliveri can be reached at  
 7 mike.oliveri@umcsn.com or (702) 383-6264.

8 4. For Teletracking, the following individuals would be most  
 9 knowledgeable on this system application:

- 10 ■ John Rendall, Director of Environmental Services & Patient Transport,  
 11 john.rendall@umcsn.com or (702)765-7930;
- 12 ■ Jessica Monje, Manager, Service Response Center,  
 13 Jessica.monje@umcsn.com or (702) 207-8843; and
- 14 ■ Bill Pellegrino, Director, Patient Placement, bill.pellegrino@umcsn.com  
 15 or (702) 671-1053.

16 5. For CrimeStar, Ruben Gurrola, Director of Public Safety would be  
 17 most knowledgeable on this system application. Mr. Gurrola can be reached at  
 18 ruben.gurrola@umcsn.com or (702) 383-6253.

19 6. For GRASP, the following individuals would be most knowledgeable  
 20 on this system application:

- 21 ■ Lorraine Noonan, Director of Nursing Operations,  
 22 Lorraine.noonan@umcsn.com or (702) 383-2548;
- 23 ■ Linda Williams, nursing supervisor, linda.williams@umcsn.com or (702)  
 24 383-2246; and
- 25 ■ Tana Wisniewski, Supervisor, Clinical Analysts, would be responsible for  
 26 UMC IT support for the GRASP application,  
 27 tana.wisniewski@umcsn.com or (702) 544-5448.

1           **CRIMESTAR**

2           7. I was asked to determine the last CrimeStar application upgrade at  
3 UMC. Attached please find as Exhibit A the email change management ticket for  
4 the most recent CrimeStar upgrade, dated April 30, 2012.

5           **TELETRACKING**

6           8. With regard to Teletracking, I was asked to detail the modules at use in  
7 the Sodexo Teletracking software suite.

8           9. The Sodexo **TELETRACKING** software suite is divided into two  
9 separate sets of servers: (1) Capacity Management Suite (CMS), and (2) Service  
10 Tracking (ST).

11          10. CMS consists of the following:

- 12          a. BedTracking - Used primarily by Administration, ODA, PPC and the  
13             nurses on the floor. For obvious reasons this product is used to monitor  
14             and maintain patient census and coordinate patient location depending  
15             upon type and acuity of care.  
16          b. PreAdmitTracking (with electronic Bedboard) - Used primarily by Trauma  
17             and ER and Admitting.  
18          c. TransportTracking - used primarily by Transportation and EVS.  
19          d. PatientTracking - Used primarily by Administration, ODA, PPC and the  
20             nurses on the floor. For obvious reasons this product is used to monitor  
21             and maintain patient census and coordinate patient location depending  
22             upon type and acuity of care.  
23          e. Standard and Custom Reporting  
24          f. All of these are separate applications within the software suite.  
25          g. There are production, test and train servers for CMS (umccmsprod,  
26             umccmstrain, umccmstest)

27          11. ST consists of ServiceTracking only. There are production, test and  
28             train servers for ST (umcstprod, umcsttrain, umcsttest).

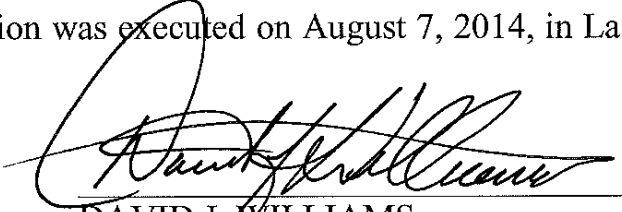
25           **CLARITY**

26          12. For Clarity, I was asked to determine who in human resources or  
27             related to human resource functions at UMC had access to Clarity and when they  
28             last used Clarity.

1           13. Attached as Exhibit B is a list of the individuals I identified with an HR  
2 or related function that had a Clarity ID. I noted the date of the first timesheet  
3 located (if any), the date of the last timesheet found (if any), the date of last access  
4 into Clarity (if any). A key to my column headings is included with the list.

5           14. I was also asked to provide a list of possible reports that can be run in  
6 Clarity. I have attached screenshots of the report directory from Clarity as Exhibit C.  
7 I cannot guarantee that any of these report options are actually capable of being used  
8 in Clarity currently.

9  
10           I hereby declare under penalty of perjury under the laws of the State of  
11 Nevada that the foregoing statements are true and correct to the best of my  
12 knowledge and that this declaration was executed on August 7, 2014, in Las Vegas,  
13 Nevada.

14  
15   
16 DAVID J. WILLIAMS  
17  
18  
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24  
25  
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28

## Exhibit A

## Witty, Cayla

---

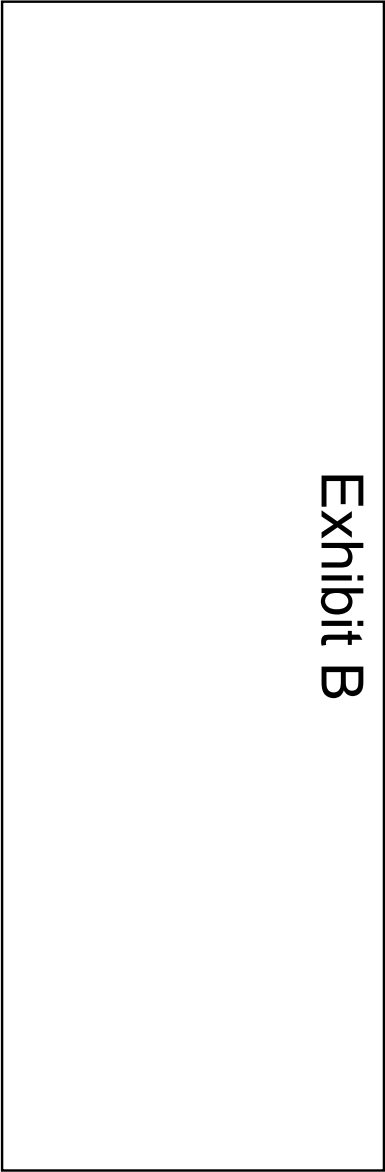
**From:** SPFSQL <SPFSQL@umcsn.com>  
**Sent:** Monday, April 30, 2012 10:46 AM  
**To:** David Williams; isdept-D  
**Cc:** Tod Miller  
**Subject:** Change Management Notice - Upgrade Crimestar Application

**Title:** Upgrade Crimestar Application  
**Start Time:** Monday, April 30, 2012 8:00:00 AM  
**End Time:** Monday, April 30, 2012 11:00:00 AM  
**Where:** Datacenter  
**Why:** Public Safety Request Functional Improvement  
**What:** Upgrade Crimestar Application to Latest Levels  
**Responsible IT Employee:** Dave Williams  
**Users Affected:** Public Safety  
**Area of Responsibility:** IT Development  
**Type of Change:** Standard (Lvl 3)  
**Status:** Completed  
**Risk Assessment:** Yes  
**Risk Assessment #:** 133  
**Rollback Plan:** Yes  
**Rollback Plan Details:** Roll back upgrade as necessary from backups  
**Other Information:**

**Also Notify:** [Tod.Miller@umcsn.com](mailto:Tod.Miller@umcsn.com)

**Created by:** David Williams  
**Modified by:** David Williams  
**Approved by:** CAB  
**Approval Date:** Wednesday, April 18, 2012

**View the Calendar:** <http://umcitweb/Lists/ChangeManagement/calendar.aspx>





Name / LogonID	Start Date	End Date	Last Access	Comments
Stephanie Merrill / hrsteph	10/3/2011	2/4/2013	None	There is no time logged for Stephanie Merrill. It appears to me that Mike Oliveri or Sean Grauer filled in and approved her timesheets. From 7/30/2012 until present, the timesheets were not even submitted for approval.
John Espinoza / jespinoza	N/A	N/A	None	John has an ID, but I could not locate any resources under his resource ID or logon ID
Doug Spring / hrdspring	N/A	N/A	None	Doug has an ID, but I could not locate any resources under his resource ID or logon ID
Mary Sinclair / hrmary	7/5/2010	6/23/2014	7/29/2013	Mary had a few timesheets utilized, but they only showed a few hours on each time sheet. Most were not even opened or filled out or approved.
Jackie Panzeri	N/A	N/A	None	I could locate no resources or an ID belonging to Jackie Panzeri in Clarity

Search was done for ALL resources attached to the person from 1/1/2006 to 8/5/2014

Name - Employee Name

LogonID - Employee logon ID and Resource ID in Clarity

Start Date - Date of first timesheet found

End Date - Date of last timesheet found

Last Access - Date of last access into Clarity

Comments - as stated

## Exhibit C

CA Clarity PPS - Job Definitions - Microsoft Internet Explorer provided by University Medical Center

CA Clarity Studio

Partition Models  
Objects  
Queries  
Portals  
Portal Pages  
Menu Manager  
UI Themes  
Add-Ins  
Views

Data Administration  
Datamart Settings  
Datamart Snapshots  
Time Slices  
Auto-numbering  
Lookups  
Incidents  
Reports and Jobs  
Rooms and Equipment  
Sales Hierarchy  
Processes  
Process Engines

Finance  
Processing  
WIP Settings  
Setup  
Define Matrix  
Manage Matrix

Chargebacks  
GL Accounts  
Standard Rules  
Overhead Rules  
Credit Rules  
Messages

Project Management  
Timesheet Options  
Time Reporting Periods  
Charge Codes  
Input Type Codes  
Invalid Transactions  
Document Templates  
Settings  
Base Calendars  
Methods  
Roll Settings

General Settings  
System Options  
Site Links  
Client Downloads

Executable Type: All

Filter Show All Clear

New Activate Deactivate Delete

Job Definition	ID	Description	Executable Type	File Name	System Type	Active
Assign Incident	ASSIGN_INCIDENTS	Assign the Incident	SQL Stored Procedure	IMR_ASSIGN_INCIDENT	User-defined	✓
Autoschedule Project	autosched_project	Create/Overwrite the tentative project schedule	Java	com.niku.projmgr.autoschedule.job.AutoschedulerJob	System	✓
Batch Printing	Batch_Printing	Batch Printing	Java	com.niku.revenue.background.RevMgrBackgroundProcess	System	✓
Budget Forecast Analysis	RPT_RM_BudgetForecast	Budget Forecast Analysis	Report	Budget Forecast Analysis	System	✓
Budget/Forecast Analysis	Budget/Forecast_Analysis	Analysis of Budget/forecast vs. actuals vs. planned costs	Report	/PBJ/PlanAnalysis.rpx	System	✓
Calendar Background Process	Calendar_Background_Process	Process to manage recurring calendar events	Java	com.niku.calendar.scheduler.CalendarBackgroundProcess	System	✓
Chargeback GL Account Activity	RPT_RM_Chrgback_GL_Acct_Activ	Chargeback GL Account Activity	Report	Chargeback GL Account Activity	System	✓
Clean User Session	Clean_User_Session	Job definition for cleaning user session	Java	com.niku.security.CleanUserSessionListener	System	✓
Company Listing	Company_Listing	Company Listing	Report	/CRM/companies.rpx	System	✓
Create Earned Value Snapshots	CREATE_EV_SNAPSHOTS	Creates new Earned Value snapshot history records	XSL	projmgr#process#history.xml	User-defined	✓
Customer & Provider Chargeback	RPT_RM_Customer_Provid_Chrgback	Customer & Provider Chargeback	Report	Customer & Provider Chargeback	System	✓
Customer Invoice	RPT_RM_Customer_Invoice	Customer Invoice Report	Report	Customer Invoice Report	System	✓
Customer Invoice	Customer_Invoice	Customer invoice	Report	/PAC/invoice.rpx	System	✓
Datamart Extraction	Datamart_Extraction	Job definition for datamart extraction	Java	com.niku.ngs.listeners.DatamartJob	System	✓
Datamart Rollup - Time Facts and Time Summary	Datamart_Rollup	Populate time facts and time summary tables	SQL Stored Procedure	CRM_JOB_DATAMART_ROLLUP_SP	System	✓
Delete Investments	Delete_Projects	Delete selected investments and their associated data including investment hierarchy, financial data, tasks, timesheets and documents etc.	XSL	projmgr#projects#purgeProjects.xml	System	✓
Delete Process Instance	PROCESS_INST_DEL	Delete process instances according to the specified parameters	XSL	bpmedelateProcessInstancesJob.xml	System	✓
Execute a Process	EXECUTE_NOR_OBJECT_PROCESS	Executes a process not associated with any object	Java	com.niku.bpm.jobs.ExecuteProcessJob	System	✓
Generate Invoices	generate_invoices	Generates Chargeback Invoices	Java	com.niku.revenue.chargeback.invoice.InvoiceGenerator	System	✓
Import Financial Actuals	Import_Financial_Actuals	Job definition for importing financial XSL actuals	XSL	importWIPActuals.xml	System	✓

Total Results: 75

New Activate Deactivate Delete

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CA Clarity PPS - Job Definitions - Microsoft Internet Explorer provided by University Medical Center

CA Clarity Studio

Partition Models  
Objects  
Queries  
Portals  
Portal Pages  
Menu Manager  
UI Themes  
Add-Ins  
Views

Data Administration  
Datamart Settings  
Datamart Snapshots  
Time Slices  
Auto-numbering  
Lookups  
Incidents  
Reports and Jobs  
Rooms and Equipment  
Sales Hierarchy  
Processes  
Process Engines

Finance  
Processing  
WIP Settings  
Setup  
Define Matrix  
Manage Matrix

Chargebacks  
GL Accounts  
Standard Rules  
Overhead Rules  
Credit Rules  
Messages

Project Management  
Timesheet Options  
Time Reporting Periods  
Charge Codes  
Input Type Codes  
Invalid Transactions  
Document Templates  
Settings  
Base Calendars  
Methods  
Roll Settings

General Settings  
System Options  
Site Links  
Client Downloads

Executable Type: All

Filter Show All Clear

New Activate Deactivate Delete

Job Definition	ID	Description	Executable Type	File Name	System Type	Active
Index contents and documents for searches	Index_contents_doc_for_search	Index contents (activities, events, discussion and action items) and documents into search collections	Java	com.niku.search.nspider.Nspider	System	✓
Investment Allocation	inv_alloc_job	Synchronize investment time sliced values	Java	com.niku.projmgr.service.staffing.job.InvestmentAllocationJob	System	✓
Investment Status	RPT_PPM_ProjectStatus	Investment Status	Report	Investment Status	System	✓
Invoice Register	RPT_RM_Invoice_Register	Invoice Register	Report	Invoice Register	System	✓
Invoice Register	Invoice_Register	Invoice Register	Report	/PAC/invregister.rpx	System	✓
Key Tasks and Milestone Status	RPT_PPM_KeyTaskMilestoneStatus	Key Tasks and Milestone Status	Report	Key Tasks and Milestone Status	System	✓
Key Tasks and Milestone Status	Key_Tasks_Milestone_Status	Key tasks and milestone status by WBS element	Report	/PBJ/taskmat.rpx	System	✓
LDAP - Synchronize New and Changed Users	LDAP_Sync_New_Changed_users	LDAP - Synchronize New and Changed Users	Java	com.niku.security.directory.LDAPAddModifySyncAgent	System	✓
LDAP - Synchronize Obsolete Users	LDAP_Sync_Obsolete_Users	LDAP - Synchronize Obsolete Users	Java	com.niku.security.directory.LDAPDeleteSyncAgent	System	✓
Missing Time Report	Missing_Time_Report	Resource missing time by time period grouped by manager	Report	/RSM/missingtime.rpx	System	✓
Missing Time Report	RPT_PPM_MissingTimeReport	Missing Time Report	Report	Missing Time Report	System	✓
OBS Listing	OBS_Listing	OBS Listing	Report	/CRM/vbelist.rpx	System	✓
Portfolio Alignment	Portfolio_Alignment	Alignment of projects by corporate goals	Report	/PBJ/palign.rpx	System	✓
Portfolio Alignment	RPT_PPM_PortfolioAlignment	Portfolio Alignment	Report	Portfolio Alignment	System	✓
Post Incident Financials	ITL_INCIDENT_COST_CALC	Incident effort cost calculation	PHD	tlincidentCostCalc	System	✓
Post Timesheets	Post_Timesheets	Job definition for posting timesheets	XSL	postTimesheets.xml	System	✓
Post Transactions to Financial	Post_Transactions_to_Financial	Post Transactions to Financials	SQL Stored Procedure	PAC_JOB_PPMTXANSIMPORT_SP	System	✓
Pre-Billing Report	Pre-Billing_Report	Pre-Billing Report	Report	/PAC/prebilling.rpx	System	✓
Pre-Billing Report	RPT_RM_Pre-Billing_Report	Pre-Billing Report	Report	Pre-Billing Report	System	✓
Project Analysis and Profitability	Project_Analysis_Profitability	Project revenue, cost and margin grouped by manager	Report	/PAC/projgrpts.rpx	System	✓

Total Results: 75

New Activate Deactivate Delete

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CA Clarity PPM - Job Definitions - Microsoft Internet Explorer provided by University Medical Center

Job Definitions

Filter: Show All Clear

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Job Definition	ID	Description	Executable Type	File Name	System Type	Active
<input type="checkbox"/> Project Issues	Issues	Project Issues grouped by person assigned	Report	/CTS/cts_issues.rpx	System	✓
<input type="checkbox"/> Project Listing	Project_Listing	Project Listing	Report	/PRJ/projects.rpx	System	✓
<input type="checkbox"/> Project Risks	Risks	Project Risks	Report	/CTS/cts_risks.rpx	System	✓
<input type="checkbox"/> Project Snapshot	Project_Snapshot	Project budget and actual hours, costs, and revenue	Report	/PRJ/snapshot.rpx	System	✓
<input type="checkbox"/> Project Spotlight	Portfolio_Dashboard	Project Spotlights on budget, schedule, milestones, issue and risk status	Report	/PRJ/spotdash.rpx	System	✓
<input type="checkbox"/> Project Transactions Inquiry	Project_Transactions_Inquiry	A list of transactions grouped by task	Report	/PAC/traninq.rpx	System	✓
<input type="checkbox"/> Project Transactions Inquiry	RPT_PRR_ProjectTranInquiry	Project Transactions Inquiry	Report	Project Transactions Inquiry	System	✓
<input type="checkbox"/> Project Audit Trail	CCF_AUD_PURGE	Purge Audit Trail	XSL	ccfsubject/purgeaudit.xsl	System	✓
<input type="checkbox"/> Purge Documents	PURGE_DOCS	Purge documents according to the specified parameters	Java	com.niku.dms.purge.DocumentPurgeJob	System	✓
<input type="checkbox"/> Purge Financial Tables	Purge_Financial_Tables	Purge Financial Tables	Java	com.niku.revenue.background.PurgeFinancial	System	✓
<input type="checkbox"/> Purge Temporary Hierarchy Data	EXSCUTE_AGGG_CLEANUP_JOB	Removes temporary data created while computing aggregated costs	Java	com.niku.service.jobs.AggregatorCleaner	System	✓
<input type="checkbox"/> Rate Matrix Extraction	Rate_Matrix_Extraction	Extract rate matrix information	SQL Stored Procedure	CHM_JOB_RATE_MATRIX_SP	System	✓
<input type="checkbox"/> Remove Job Logs and Report Library entries	Remove_Job_Logs_Report_Library	Remove the job log entries and/or the report library entries that are older than the supplied parameters	SQL Stored Procedure	omr_job_logs_delete_sp	System	✓
<input type="checkbox"/> Resource Assignments	Resource_Assignments	Resource assignments	Report	/RSM/assignments.rpx	System	✓
<input type="checkbox"/> Resource Assignments	RPT_PRR_ResourceAssignments	Resource Assignments	Report	Resource Assignments	System	✓
<input type="checkbox"/> Resource Bench	Resource_Bench	Resources with available time	Report	/RSM/bench.rpx	System	✓
<input type="checkbox"/> Resource Calendar	Resource_Calendar	Resource calendar and project assignments	Report	/RSM/resourcecal.rpx	System	✓
<input type="checkbox"/> Resource Listing	Resource_Listing	Resource Listing	Report	/RSM/resources.rpx	System	✓
<input type="checkbox"/> Resource Utilization History	Resource_Utilization_History	Resource utilization by time period	Report	/RSM/utlhistory.rpx	System	✓
<input type="checkbox"/> Resources by Role Description	RPT_PRR_Res_ByRoleDescrpt	Resources by Role Description	Report	Resources by Role Description	System	✓

Total Results: 70

New Activate Deactivate Delete

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CA Clarity PPM - Job Definitions - Microsoft Internet Explorer provided by University Medical Center

Job Definitions

Filter: Show All Clear

New Activate Deactivate Delete

Job Definition	ID	Description	Executable Type	File Name	System Type	Active
<input type="checkbox"/> Resources By Skill	Resources_By_Skill	Resources by Skill Report	Report	/RSM/resoskill.rpx	System	✓
<input type="checkbox"/> Revenue Forecast	Revenue_Forecast	Resource revenue forecast	Report	/RSM/reufoast.rpx	System	✓
<input type="checkbox"/> Send Calendar Reminders	Send_Calendar_Reminders	Send Calendar Reminders	Java	com.niku.calendar.scheduler.CalendarSendReminders	System	✓
<input type="checkbox"/> Skills Listing	Skills_Listing	Skills Listing	Report	/RSM/skillist.rpx	System	✓
<input type="checkbox"/> Time Slicing	Time_Slicing	Split time varying data into relational format	XSL	Moborack#Moborack.xsl	System	✓
<input type="checkbox"/> Timesheet Detail	Timesheet_Detail	Timesheet detail by resource	Report	/RSM/timesheet.rpx	System	✓
<input type="checkbox"/> Timesheet Detail	RPT_PRR_TimesheetDetail	Timesheet Detail	Report	Timesheet Detail	System	✓
<input type="checkbox"/> Transactions Inquiry	Transactions_Inquiry	A one line listing of WIP transactions	Report	/PAC/transactions.rpx	System	✓
<input type="checkbox"/> Unfilled Rules	Unfilled_Rules	Unfilled resource rules	Report	/PRJ/unfilledrules.rpx	System	✓
<input type="checkbox"/> Update % Complete	Recalc_percent_complete	Update % Complete for projects with changed data that affects task % complete	Java	com.niku.projmgr.autoschedule.jobs.RecalcPercentCompleteJob	User-defined	✓
<input type="checkbox"/> Update Earned Value History	update_ev_history	Updates Earned Value history for one or more projects	Java	com.niku.evm.jobs.updateEVHistoryJob	System	✓
<input type="checkbox"/> Update Earned Value Totals	update_ev_totals	Updates Earned Value totals for one or more projects	Java	com.niku.evm.jobs.updateEVTotalsJob	System	✓
<input type="checkbox"/> Update Hierarchy Data	EXSCUTE_AGGREGATION_JOB	Updates Cost and Allocation Data for Investments Hierarchies	Java	com.niku.service.jobs.AggregateRequestor	System	✓
<input type="checkbox"/> Validate process definitions	validate_process_definitions	Validate process definitions	Java	com.niku.bpm.jobs.validateProcessJob	System	✓
<input type="checkbox"/> WIP Aging By Customer	WIP_Aging_By_Customer	WIP Aging By Customer	Report	/PAC/wipaging.rpx	System	✓
<input type="checkbox"/> WIP Summary	WIP_Summary	A summary of WIP by project or company	Report	/PAC/wipsum.rpx	System	✓

Total Results: 70

New Activate Deactivate Delete

## Exhibit E

1 ROBERT W. FREEMAN  
Nevada Bar No. 3062  
2 MARGARET G. FOLEY  
Nevada Bar No. 7703  
3 CAYLA WITTY  
Nevada Bar No. 12897  
4 **LEWIS BRISBOIS BISGAARD & SMITH LLP**  
6385 S. Rainbow Boulevard, Suite 600  
5 Las Vegas, Nevada 89118  
702.893.3383  
6 FAX: 702.893.3789  
Attorneys for Defendant University  
7 Medical Center of Southern Nevada

8  
9 **UNITED STATES DISTRICT COURT**  
10 **DISTRICT OF NEVADA**

11 \*\*\*

12 DANIEL SMALL, CAROLYN  
SMALL, WILLIAM CURTIN, DAVID  
13 COHEN, LANETTE LAWRENCE, and  
LOUISE COLLARD, Individually, and  
14 on Behalf of All Other Persons  
Similarly Situated,

15 Plaintiff,

16 vs.

17 UNIVERSITY MEDICAL CENTER  
18 OF SOUTHERN NEVADA;

19 Defendant.  
20

CASE NO. 2-13-cv-0298-APG - PAL

**DECLARATION OF  
DAVID J. WILLIAMS**

21 I, David J. Williams, hereby declare as follows:

22 1. I am a System Administrator in the University Medical Center of  
23 Southern Nevada (UMC) Information Technology Department (IT). The facts set  
24 forth herein are of my own personal knowledge and if sworn I could and would  
25 testify competently thereto.

26 2. I first learned about the *Small v. UMC* lawsuit in July 2013 via an email  
27 from UMC Human Resources. At that time, I was not contacted or notified to  
28 preserve any information related to the lawsuit.



1           3.     Toward the end of March 2014, I was instructed by IT management,  
2 Ernie McKinley, the Chief Information Officer, with Susie Kisner present, to review  
3 Blackberry Enterprise Server settings and begin retaining SMS messages sent by  
4 certain UMC employees. This was the first I heard of data preservation for this  
5 lawsuit although I did not immediately know the reason for the change at the time of  
6 the request. Through a later telephone conference, various in-person conversations,  
7 and email communications, with Lonnie Richardson, Susie Kisner, and others, I  
8 learned of the reason for the change that was requested which was in response to  
9 this litigation. The preservation efforts were later expanded to workstations and  
10 other data repositories in mid-April 2014.

11           4.     Individually, and with the cooperation with the other system  
12 administrators, I continued to preserve the confidentiality, integrity, and availability  
13 of the systems under my purview. Part of these responsibilities included verifying  
14 the back-ups of all systems that are retained in CommVault, our backup system. I  
15 did verify that UMC is backing up several hundred applications contained on  
16 numerous servers, including Clarity, TeleTracking, Crimestar, and GRASP, which I  
17 understand to be of particular interest in this matter. I know that others were tasked  
18 with collecting desktop hard-drives and other efforts, but I was not responsible for  
19 those activities.

20           5.     I have worked at UMC since April 19, 2004. A true and correct copy of  
21 the job description for my position is attached hereto as Exhibit A.

22           6.     There are six (6) System Administrators at UMC, including me. The  
23 other System Administrators are: David Bennett, Gerald (Jerry) Bevil, Joel Aguilar,  
24 Jason Clark, and Darin DeCounter. We share responsibility for all systems at UMC  
25 within certain specifications, basically broken down by OS platforms. For example,  
26 four System Administrators work on Windows systems of which the Clarity system  
27 is one.

28

1           7.     UMC began using the Clarity project management software around  
2 May of 2006. I personally installed it with the help of consultants and have been the  
3 main System Administrator maintaining it with the help of Carmelito Mendoza, the  
4 Database Administrator. I was only responsible for the system configuration, not the  
5 use of the application. Clarity was meant to be a project management tool, as UMC  
6 was trying to establish a formal PMO. After the removal of Lacy Thomas who was  
7 the CEO at the time Clarity was brought in, Clarity devolved into collecting data for  
8 analysis of time spent by UMC staff on projects versus working tickets generated in  
9 UMC's problem tracking system. Clarity was meant to manage projects and  
10 estimate workloads. To my knowledge the entries did not determine any employee  
11 pay.

12           8.     IT staff entered time spent each day in particular areas, such as  
13 break/fix or specific projects as line items. I was not provided with any hard copy  
14 form to aid in timekeeping or instructed or advised to record outside of Clarity what  
15 I did each day to aid me in putting my time on assigned tasks into Clarity, and I do  
16 not know of anyone who received such instruction or aid.

17           9.     The IT staff entering time into Clarity were supposed to honestly track  
18 hours worked, however, data entered into Clarity did not affect pay. I created the  
19 attached document, identified as Exhibit D, which demonstrates via screen shots an  
20 option box located near the bottom wherein breaks/lunches could be selected as a  
21 line item. Only the hours in Kronos generated pay, not the time recorded in Clarity.  
22 Because I am an exempt employee, I logged into Kronos at the beginning of the day  
23 and was paid for the salary time clocked in Kronos.

24           10.    When an employee entered their time in Clarity, the entry was time and  
25 date-stamped. I did not learn this until recently. Ideally, time should have been  
26 entered on a daily basis, but workload for many employees made this difficult. I do  
27 not know of any other automatic data that was captured when an employee entry  
28 was submitted.

1        11. Reports were run on a periodic basis by the data owner, Mike Oliveri.  
2 Other members of UMC management received reports from Clarity, and an  
3 employee's timesheet entries were approved by the employee's supervisor. I do not  
4 know what the specific content was or the number of reports other than that the  
5 reports gave management a breakdown of the time spent per project/break-fix  
6 bucket. I believe that Mr. Oliveri also ran reports detailing progress on projects and  
7 the hours people worked when Clarity was used to manage projects. We worked  
8 together several times to resolve problems with running the reports. Eventually,  
9 ITROI was contracted to assist Mr. Oliveri in resolving the errors. I was not privy to  
10 the information contained within the reports Mr. Oliveri or ITROI generated.

11        12. Data within Clarity was also archived, or marked inactive, on a periodic  
12 basis. Mr. Oliveri was also responsible for this activity. Once data was complete  
13 for all personnel for a period, it was archived. Users could not update the  
14 information or see the data in the application portal after this archival of data.

15        13. To my knowledge, no data was ever completely removed or deleted  
16 from the Clarity system. As described above, the data may not be viewed by a user,  
17 but the data was retained in the Clarity system as inactive or archived data.

18        14. The Clarity database was housed on a server at UMC. This server,  
19 UMCCCLARITY, contains the database and all the application programs, reporting  
20 tools, etc. This server was shut down on May 5, 2014 after I received an email from  
21 Mr. Oliveri indicating that UMC would no longer be using the product. After  
22 confirming with management, I turned the system off following standard operating  
23 procedure. The data within Clarity is no longer being input or updated to my  
24 knowledge, and it has not been moved, altered, lost, or deleted to my knowledge.

25        15. To my knowledge, UMC does not have any system similar to Clarity in  
26 place currently or since the system was shut down.

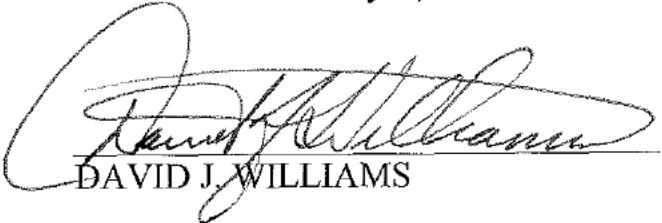
27        16. At the request of counsel, I restored the Clarity system to functionality  
28 in anticipation of remote-viewing by the Special Master on June 16, 2014. I booted

1 the server (which is in a VM environment), did some maintenance to VMware tools  
2 and applied outstanding Windows maintenance and rebooted several times to finish  
3 these tasks. I waited several hours and then restarted the Niku admin console. From  
4 there, I brought up the application, and confirmed that it was ready for use from the  
5 application webpage's response. I logged in and shut down the admin console.

6 17. Clarity is up and running currently. I utilized the system, at the request  
7 of counsel, to verify and compare a list of complainants to the users I could find. I  
8 logged into the product with an administrator logon and password, and clicked on  
9 the timesheet filter icon in the upper-right hand corner. Attached hereto as Exhibit B  
10 is a screenshot of the timesheet filter. This screenshot shows the fields I filled to  
11 create a list of possible users. I then manually scanned the list of users against the  
12 list of opt-in plaintiffs, and supplied a verification report to counsel for UMC. A  
13 copy of the verification report is attached hereto as Exhibit C.

14 18. All obtainable e-mails referenced within this Declaration are attached  
15 hereto as Exhibit E.

16  
17 I hereby declare under penalty of perjury under the laws of the State of  
18 Nevada that the foregoing statements are true and correct to the best of my  
19 knowledge and that this declaration was executed on July 8, 2014, in Las Vegas,  
20 Nevada.

21  
22   
23 DAVID J. WILLIAMS  
24  
25  
26  
27  
28



## Exhibit F



1 ROBERT W. FREEMAN  
Nevada Bar No. 3062  
2 MARGARET G. FOLEY  
Nevada Bar No. 7703  
3 CAYLA WITTY  
Nevada Bar No. 12897  
**LEWIS BRISBOIS BISGAARD & SMITH LLP**  
4 6385 S. Rainbow Boulevard, Suite 600  
Las Vegas, Nevada 89118  
5 702.893.3383  
FAX: 702.893.3789  
6 *Attorneys for Defendant University*  
7 *Medical Center of Southern Nevada*

8  
9 **UNITED STATES DISTRICT COURT**  
10 **DISTRICT OF NEVADA**

11 \*\*\*

12 DANIEL SMALL, CAROLYN  
SMALL, WILLIAM CURTIN, DAVID  
13 COHEN, LANETTE LAWRENCE, and  
LOUISE COLLARD, Individually, and  
14 on Behalf of All Other Persons  
Similarly Situated,

15 Plaintiff,

16 vs.

17 UNIVERSITY MEDICAL CENTER  
OF SOUTHERN NEVADA;

18 Defendant.  
19

CASE NO. 2-13-cv-0298-APG - PAL

**DECLARATION OF  
RUBEN GURROLA  
REGARDING CRIMESTAR  
QUESTIONS FROM SPECIAL  
MASTER GARRIE**

20  
21 I, RUBEN GURROLA, hereby declare as follows:

22 1. The facts set forth herein are of my own personal knowledge and if  
23 sworn I could and would testify competently thereto.

24 2. I work at UMC as Director of Public Safety. I was asked to answer the  
25 questions listed below with regards to the CrimeStar application in use at UMC to  
26 the best of my ability. I spoke with \_\_John Foster\_\_ to  
27 assist me with answering these questions.  
28

- What is the retention schedule for the CrimeStar timekeeping systems?

There is no known retention schedule

- How far back does the data go for the CrimeStar timekeeping systems?

The CrimeStar timekeeping system goes back to May of 2003.

- Can users delete data from the CrimeStar timekeeping systems? And, if so, which systems? Who is able to delete data from the systems? Once deleted, is the data gone permanently?

Data can only be deleted by System Administrators Ruben Gurrola and John Foster. Yes, it is gone permanently.

- Did UMC at any point during the time period at issue migrate or upgrade the CrimeStar timekeeping systems? If yes, please include a statement that details when UMC performed the migration and what data they migrated and how it was migrated.

I do not have knowledge of the system ever being upgraded.

- How does the data entered by the users in the CrimeStar systems differ from data captured in Kronos? Please provide a statement that identifies the additional data that is captured in the CrimeStar timekeeping system that is not captured in Kronos.

CrimeStar data is entered by a dispatcher in our control center; Kronos is based on the employee clocking in and out for lunch. The systems are separate Kronos and CrimeStar are not related in anyway.

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• Is information on the duration of meal breaks available in the CrimeStar system? If this data is not available, what relevant data is captured by the system?

Yes, start time and end time.

• For the CrimeStar timekeeping systems, how long is the data kept that is entered by the users? Include the data retention policies for each of these systems.

No data retention policy for this system. No known limit on how long data is kept.

I hereby declare under penalty of perjury under the laws of the State of Nevada that the foregoing statements are true and correct to the best of my knowledge and that this declaration was executed on August 7, 2014, in Las Vegas, Nevada.

\_\_\_\_\_  
RUBEN GURROLA

## Exhibit G

1 ROBERT W. FREEMAN  
Nevada Bar No. 3062  
2 MARGARET G. FOLEY  
Nevada Bar No. 7703  
3 CAYLA WITTY  
Nevada Bar No. 12897  
4 LEWIS BRISBOIS BISGAARD & SMITH LLP  
6385 S. Rainbow Boulevard, Suite 600  
5 Las Vegas, Nevada 89118  
702.893.3383  
6 FAX: 702.893.3789  
Attorneys for Defendant University  
7 Medical Center of Southern Nevada

8  
9 UNITED STATES DISTRICT COURT  
10 DISTRICT OF NEVADA

11 \*\*\*

12 DANIEL SMALL, CAROLYN  
13 SMALL, WILLIAM CURTIN, DAVID  
14 COHEN, LANETTE LAWRENCE, and  
LOUISE COLLARD, Individually, and  
on Behalf of All Other Persons  
Similarly Situated,

15 Plaintiff,

16 vs.

17 UNIVERSITY MEDICAL CENTER  
18 OF SOUTHERN NEVADA;

19 Defendant.

CASE NO. 2-13-cv-0298-APG - PAL

DECLARATION OF  
LINDA WILLIAMS  
REGARDING GRASP  
QUESTIONS FROM SPECIAL  
MASTER GARRIE

20  
21 I, LINDA WILLIAMS, hereby declare as follows:

22 1. The facts set forth herein are of my own personal knowledge and if  
23 sworn I could and would testify competently thereto.

24 2. I work at UMC as a Float Pool RN – Critical Care. I was asked to  
25 answer the questions listed below with regards to the GRASP application in use at  
26 UMC to the best of my ability. I spoke with Not Applicable to assist me with  
27 answering these questions.

28  
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- 1 • What is the retention schedule for the GRASP system?

2 *Information entered into the GRASP workload can be changed for 24*  
3 *hours from the beginning of the shift in which it was started. Shifts*  
4 *begin at 7 AM and 7 PM. After 24 hours the workload screen will gray*  
5 *out and can't be changed. Staffing Data entered into "Actual Staffing"*  
6 *in the Staffing Screen is viewable and therefore can be changed for the*  
7 *previous 6 months. All data entered into the system, including any*  
8 *changes to data is saved in the GRASP Database each day at midnight.*  
9 *Data entered into the system from midnight is called "Transactional*  
10 *Data". The current GRASP 3.10 program is the initial web version of*  
11 *GRASP. This system was installed and used at UMC beginning 2/11.*  
12 *All data entered from this date can be utilized in reports. In addition*  
13 *any changes to the workload tool and unit budgets used are maintained*  
14 *in the MistroClef Administrative Console.*

- 15 • How far back does the data go for the GRASP system?

16 *Data in the current version of GRASP, which is the first web version, is*  
17 *available from February 2011. It is further limited by available*  
18 *reports.*

- 19  
20 • Can users delete data from the GRASP system? And, if so,  
21 which systems? Who is able to delete data from the systems? Once  
22 deleted, is the data gone permanently?

23 *The workload tool and the Questionnaire, used only when*  
24 *validating the workload tool, can be changed for 24 hours from the*  
25 *beginning of a shift and then is grayed out.*

- 26 • Did UMC at any point during the time period at issue migrate  
27 or upgrade the GRASP system? If yes, please include a statement  
28

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2



1 that details when UMC performed the migration and what data they  
2 migrated and how it was migrated.

3 *No, there is an upgrade to the system, but UMC has not installed or*  
4 *tested the upgrade.*

5 • How does the data entered by the users in the GRASP system  
6 differ from data captured in Kronos? Please provide a statement that  
7 identifies the additional data that is captured in the GRASP system  
8 that is not captured in Kronos.

9 *Kronos is a payroll system in which all data is entered*  
10 *electronically. Reports generated are from actual data. In GRASP*  
11 *staffing data is entered manually and is therefore less reliable. Up*  
12 *until about 6 months ago there was a secretary in the nursing office*  
13 *entering staffing data. Most units don't currently enter staffing*  
14 *data.*

15 • Is information on the duration of meal breaks available in the  
16 GRASP system? If this data is not available, what relevant data is  
17 captured by the system?

18 *No, GRASP considers staffing for the ADC (average daily census)*  
19 *of a unit and adds time for each employee for each of the 3 fifteen*  
20 *minute breaks for a 12 hours shift. Since the lunch break is on the*  
21 *employees time, they work 12.5 hours and are paid 12 hours time,*  
22 *GRASP does not consider the 30 minute meal break.*

23 • For the the GRASP system, how long is the data kept that is  
24 entered by the users? Include the data retention policies for each of  
25 these systems.

26 *Data can be viewed for 6 months, but it is my understanding reports*  
27 *can be generated from when the current system was installed in*  
28 *February 2011.*

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BRISBO  
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4822-2940-9819.1

3

1 I hereby declare under penalty of perjury under the laws of the State of  
2 Nevada that the foregoing statements are true and correct to the best of my  
3 knowledge and that this declaration was executed on August 7, 2014, in Las Vegas,  
4 Nevada.

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6 LINDA WILLIAMS  
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## Exhibit H

1 ROBERT W. FREEMAN  
Nevada Bar No. 3062  
2 MARGARET G. FOLEY  
Nevada Bar No. 7703  
3 CAYLA WITTY  
Nevada Bar No. 12897  
4 **LEWIS BRISBOIS BISGAARD & SMITH LLP**  
6385 S. Rainbow Boulevard, Suite 600  
5 Las Vegas, Nevada 89118  
702.893.3383  
6 FAX: 702.893.3789  
*Attorneys for Defendant University*  
7 *Medical Center of Southern Nevada*

8  
9 **UNITED STATES DISTRICT COURT**  
10 **DISTRICT OF NEVADA**

11 \*\*\*

12 DANIEL SMALL, CAROLYN  
SMALL, WILLIAM CURTIN, DAVID  
13 COHEN, LANETTE LAWRENCE, and  
LOUISE COLLARD, Individually, and  
14 on Behalf of All Other Persons  
Similarly Situated,

15 Plaintiff,

16 vs.

17 UNIVERSITY MEDICAL CENTER  
18 OF SOUTHERN NEVADA;

19 Defendant.

CASE NO. 2-13-cv-0298-APG - PAL

**DECLARATION OF  
CARMELITO MENDOZA**

**REGARDING DATABASE  
ADMINISTRATION FOR  
CLARITY, CRIMESTAR, GRASP  
AND TELETRACKING**

20  
21 I, CARMELITO MENDOZA, hereby declare as follows:

22 1. I am a Database Analyst in the University Medical Center of Southern  
23 Nevada (UMC) Information Technology Department (IT). The facts set forth herein  
24 are of my own personal knowledge and if sworn I could and would testify  
25 competently thereto.

26 2. I have worked at UMC since November 2008. As a part of my job  
27 duties, I perform maintenance on the Clarity, Teletracking, CrimeStar, and Grasp  
28

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1 databases, including monitoring of scripted back-up procedures, coordinating  
2 operations with vendors, and generating reports as needed.

3       3. Each database – Clarity, Teletracking, CrimeStar, and GRASP – is  
4 single-threaded. I am the only individual at UMC with administrative control of  
5 these databases. Thus, only I could delete data from these databases. Because of the  
6 dependent data within these databases, it is not simple to remove data. I have not  
7 deleted any data on the systems.

8       4. I am not an administrator on the applications that wrote to these  
9 databases. I know as a user of Clarity that users do not have the ability to alter or  
10 delete data submitted in the application. I do not know of users on the other systems  
11 (Teletracking, CrimeStar, and GRASP) have the ability remove data.

12       5. I do not know of a specific data retention policy for these databases.  
13 However, all data written to these databases from going live remains in the  
14 databases. I know of no data loss, data purge, or deletion from these databases.

15       6. As a part of my back-up practices, incremental back-up is conducted on  
16 a daily basis for each of these databases as part of sql maintenance. Each month,  
17 these back-ups are copied to a server for a monthly back-up conducted by Shane  
18 Lattin via CommVault. Mr. Lattin can speak to these policies more closely.

19       7. For all database upgrades, I copy the most recent back-up to the new  
20 box to prevent any data compromise. I have not had any issues accomplishing this  
21 database migration\upgrade, and I am the only one that would complete this task at  
22 UMC. I do not personally keep a record of each database upgrade or migration.

23 ///

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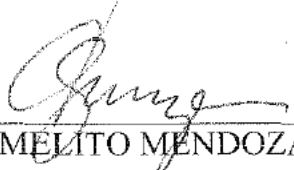
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1           8. I have reviewed the questions within the Special Master Order filed  
2 July 31, 2014. I have answered those within my knowledge to the best of my ability.  
3

4           I hereby declare under penalty of perjury under the laws of the State of  
5 Nevada that the foregoing statements are true and correct to the best of my  
6 knowledge and that this declaration was executed on August 1, 2014, in Las Vegas,  
7 Nevada.  
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CARMELITO MENDOZA





## Exhibit I

1 ROBERT W. FREEMAN  
Nevada Bar No. 3062  
2 MARGARET G. FOLEY  
Nevada Bar No. 7703  
3 CAYLA WITTY  
Nevada Bar No. 12897  
4 **LEWIS BRISBOIS BISGAARD & SMITH LLP**  
6385 S. Rainbow Boulevard, Suite 600  
5 Las Vegas, Nevada 89118  
702.893.3383  
6 FAX: 702.893.3789  
*Attorneys for Defendant University*  
7 *Medical Center of Southern Nevada*

8  
9 **UNITED STATES DISTRICT COURT**  
10 **DISTRICT OF NEVADA**

11 \*\*\*

12 DANIEL SMALL, CAROLYN  
SMALL, WILLIAM CURTIN, DAVID  
13 COHEN, LANETTE LAWRENCE, and  
LOUISE COLLARD, Individually, and  
14 on Behalf of All Other Persons  
Similarly Situated,

15 Plaintiff,

16 vs.

17 UNIVERSITY MEDICAL CENTER  
18 OF SOUTHERN NEVADA;

19 Defendant.  
20

CASE NO. 2-13-cv-0298-APG - PAL

**DECLARATION OF  
TANA WISNIEWSKI  
REGARDING GRASP  
QUESTIONS FROM SPECIAL  
MASTER GARRIE**

21 I, TANA WISNIEWSKI, hereby declare as follows:

22 1. The facts set forth herein are of my own personal knowledge and if  
23 sworn I could and would testify competently thereto.

24 2. I work at UMC as an IT Supervisor of the Clinical Analysts. I was  
25 asked to answer the questions listed below with regards to the GRASP application in  
26 use at UMC to the best of my ability:

- 27 • What is the retention schedule for the GRASP system?  
28

- 1 • How far back does the data go for the GRASP system?
- 2 • Can users delete data from the GRASP system? And, if so, which
- 3 systems? Who is able to delete data from the systems? Once deleted, is
- 4 the data gone permanently?
- 5 • Did UMC at any point during the time period at issue migrate or
- 6 upgrade the GRASP system? If yes, please include a statement that
- 7 details when UMC performed the migration and what data they migrated
- 8 and how it was migrated.
- 9 • How does the data entered by the users in the GRASP system
- 10 differ from data captured in Kronos? Please provide a statement that
- 11 identifies the additional data that is captured in the GRASP system that
- 12 is not captured in Kronos.
- 13 • Is information on the duration of meal breaks available in the
- 14 GRASP system? If this data is not available, what relevant data is
- 15 captured by the system?
- 16 • For the the GRASP system, how long is the data kept that is
- 17 entered by the users? Include the data retention policies for each of
- 18 these systems.

19 3. To the best of my knowledge, GRASP is not a timekeeping system. It  
20 is used to determine patient acuity needs.

21 4. Linda Williams is the individual most knowledgeable on the specifics  
22 for the use of GRASP from a user perspective.

23 I hereby declare under penalty of perjury under the laws of the State of  
24 Nevada that the foregoing statements are true and correct to the best of my  
25 knowledge and that this declaration was executed on August 7, 2014, in Las Vegas,  
26 Nevada.

27   
28 TANA WISNIEWSKI